







### ATTORNEY-CLIENT PRIVILEGE ENFORCEMENT CONFIDENTIAL DO NOT RELEASE

Level A Vapor Protection suits, five packages Chemical Sorbent Mini-Booms, and one GasTech Sample Draw GT-402 series kit.

The <u>EPA Supplemental Environmental Projects Policy</u> (May 1, 1998) (the "SEP Policy") provides a multi-step process for determining if a project qualifies as a SEP. SEP Policy at 2-3.

First, the project must meet the basic definition of a SEP. It must be "environmentally beneficial project...which a defendant/respondent agrees to undertake in settlement of an enforcement action, but which the defendant/respondent is not otherwise legally required to perform." The purchase of the emergency response equipment qualifies under this step.

Second, the project must meet all legal guidelines, including nexus. The nexus relationship exists only if:

- "[T]he project is designed to reduce the likelihood that similar violations will occur in the future; or
- "[T]he project reduces the adverse impact to public health or the environment to which the violation at issue contributes; or
- "[T]he project reduces the overall risk to public health or the environment potentially affected by the violation at issue."

SEP Policy at 5.

The SEP providing for the purchase of emergency response equipment for the primary responder to such releases satisfies the nexus requirement. The complaint included counts for an inadequate contingency plan, which is directly related to the issue of releases and emergency response to such releases.

Third, the SEP must satisfy one of the categories of SEPs recognized in the guidance. One allowable category of SEP is emergency planning and preparedness. The discussion of that category authorizes projects that provide needed equipment to a responsible state or local emergency response or planning entity, such as the Ontario Fire Department.

The fourth step under the SEP Policy is determination of the amount of penalty mitigation. The SEP Policy requires that the minimum penalty equal or exceed the economic benefit plus 10% of the gravity component, or 25% of the gravity component only, whichever is greater. In its complaint, EPA concluded that there

### ATTORNEY-CLIENT PRIVILEGE ENFORCEMENT CONFIDENTIAL DO NOT RELEASE

was no measurable economic benefit from the violation. The penalty being paid is approximately 80% of the recalculated gravity component, well in excess of the 25% minimum.

The amount of penalty mitigation for the SEP is \$5,423. The SEP Policy provides for a SEP mitigation of up to 80% in most circumstances. The better the SEP performs under factors such as benefits to the public at large, the greater may be the penalty mitigation. Allowing penalty mitigation of 80% for the purchase of emergency equipment is consistent with the amount of penalty mitigation provided for comparable SEPs in similar cases.

The estimated total cost of the SEP is at least \$6,779. The amount of penalty offset being granted for completion of this SEP is \$5,423, which represents a penalty mitigation of no more than 80%. Respondent has agreed not to deduct the cost of the SEP from its taxes and it will certify that it has not done so upon completion of the SEP.

### D. <u>Penalty Summary</u>

Sunkist's penalty mitigation of \$5,423 for the \$6,779 SEP plus the cash payment of \$20,656 totals \$25,079 under the CA/FO, which is the amount in the complaint.

### RECOMMENDATION

We believe that Respondent's cash payment and SEP performance constitutes an appropriate settlement for Respondent's violations. The settlement will involve the payment of a substantial monetary penalty. The settlement will act as a significant deterrent to both the Respondent and similarly situated facilities. We recommend that you sign the enclosed CA/CO.



### UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

### **REGION IX**

# 75 Hawthorne Street San Francisco, CA 94105-3901

June 20, 2000

In reply, refer to WST-3-1 Refer to:CAD981412828

Mr. Robert Eldridge, Director of Operations Sunkist Growers, Inc. 760 E. Sunkist Street Ontario CA 91761-1862

Re: Certification of Violation Correction for Sunkist Growers, Inc. Docket No. RCRA-09-0006

Dear Mr. Eldridge:

On December 4, 1998, a hazardous waste investigation was conducted by representatives of the United States Environmental Protection Agency (U.S. EPA) at Sunkist Growers, Inc., Ontario, CA, U.S. EPA ID#: CAD981412828. During the course of this investigation, information was gathered in accordance with Section 3007 of the Resource Conservation and Recovery Act (RCRA), as amended [42 U.S.C. 6927].

Pursuant to Section 3008 of RCRA [42 U.S.C. 6928] U.S. EPA required Sunkist Growers to submit payment of a NINETEEN THOUSAND AND SIX HUNDRED AND FIFTY SIX DOLLARS (\$19,656) civil penalty within thirty (30) calendar days of the Effective Date of the Consent Agreement and Final Order (CA/FO) dated April 12, 2000. Sunkist Growers was also required to purchase emergency response equipment for the City of Ontario Fire Department per a Supplemental Environmental Project agreed upon in the CA/FO, within 45 days of the CA/FO's effective date.

The facility's subsequent responses, culminating with its letter to EPA dated June 5, 2000, adequately addresses the violations and documents the facility's return to compliance with the regulations cited in the inspection report. This letter shall not be construed as a determination by U.S. EPA of your compliance with any other applicable regulations.

Sunkist Growers should continue to take the necessary steps to maintain and ensure compliance with all applicable Federal, State and local environmental requirements.

If you have any questions please call Clint Seiter of my staff at (415) 744-2141.

Sincerely,

rances Schultz

RCRA Enforcement Section

cc: Stephen Lavinger, DTSC



Sunkist Growers Processed Products P.O. Box 3720 Ontario, CA 91761-0993 Tel: (909) 983-9811

June 5, 2000

Regional Hearing Clerk (RC-1)
U.S. Environmental Protection Agency - Region IX
75 Hawthorne Street
San Francisco, CA 94105

\*\*\* Certified Return Receipt \*\*\*
Z 338 357 049

Frances Schultz (WST-3-1)
Waste Management Division
U.S. Environmental Protection Agency - Region IX
75 Hawthorne Street
San Francisco, CA 94105

\*\*\* Certified Return Receipt \*\*\*
Z 338 357 050

Subject: Sunkist Growers, Inc., Docket No. RCRA 09-99-0006

Dear Sir/Madam,

In full compliance with the executed Consent Agreement and Final Order (CA/FO), the following information is supplied.

- 1. In accordance with Section D, Item 8A of the CA/FO, delivery of the backordered purchased emergency response equipment was made on June 5, 2000. A copy of the letter certifying this delivery to the Ontario Fire Department is attached (see attachment A). Additionally, a copy of the packing slip is also included in this attachment to demonstrate shipment and delivery dates (Attachment B).
- 2. In accordance with Section D, Item 8B of the CA/FO, written language, exactly as indicated, was added to the delivery certification letter (see attachment A) signed by the OFD representative to explicitly indicate the intent of the Supplemental Environmental Project (SEP). Additionally, a copy of the delivery certification was supplied to the OFD for their files.
- 3. In accordance with Section D, Item 8C of the CA/FO, a letter certifying that Sunkist will not deduct the SEP expenditures from its taxes is provided as Attachment C. A copy of the invoices for the expenditures are provided in Attachment D. (The individual purchase was

Compliance Actions to Consent Agreement and Final Order (Docket No. RCRA 09-99-0006) U.S. Environmental Protection Agency, Region IX June 5, 2000 Page 2

executed with different delivery dates due to some of the items being backordered and, therefore, resulted in multiple invoices.) Upon final receipt and review of all the invoices, a verification was made to confirm that the invoiced amount matched the promised expenditure dollar amount indicated in the CA/FO, prior to forwarding the certification letter.

These final compliance actions itemized in this correspondence and those mentioned in previous correspondence should now result in full compliance of the CA/FO and, therefore, close this matter before the Agency.

For additional information and/or further clarification, please contact Terry Catlin at (909)933-2264.

Sincerely,

Róbert W. Eldridge Director of Operations

/tc

attachments

- Attachment A, Partial & Final Delivery Certification, dated June 5, 2000
- Attachment B, Packing Slip
- Attachment C, Certification of Non-Deductibility of Charitable Contribution
- Attachment D, Copies of Final Invoices

cc: O. Belletto, T. Catlin, T. Moore, K. Moyer, R. Peterson, W. Wells (cafolc.doc)

## **ATTACHMENT A**



June 5, 2000

City of Ontario Fire Department 425 East "B" Street Ontario, CA 91764-4194

\*\*\* Certified Receipt \*\*\*
Z 338 357 039

Sunkist Growers Processed Products P.O. Box 3720 Ontario, CA 91761-0993 Tel: (909) 983-9811

Attention: Fred C. Nelsen, Fire Chief

Dear Chief Nelsen,

Your signature (or that of a designate) below certifies that the Ontario Fire Department (OFD) has taken partial delivery on the date indicated of the emergency response equipment specified by OFD and listed below. The equipment is listed as follows:

Item	Quantity	Quantity	Description			
	Delivered	Ordered				
1	4 Each	4-Each	Kappler Level A Vapor Protective Suits, Size XL			
2	2 Each	2 Each	Kappler Level A Vapor Protective Suits, Size XXL			
3	5 Packages	5 Packages	3M Chemical Sorbent Mini-Booms (3-Gal./Boom @ 4/Pkg.)			
4	1-Each	1 Each	Gastech GT-402 Series Kit.			

"This project was undertaken in connection with a settlement agreement with the U.S. Environmental Protection Agency."

6-5-2000

Signature: Authorized OFD Representative (Print Name)

Date of Delivery

/tc (sepOFD3.doc)

# ATTACHMENT B



Picking Ticket \*\* CUSTOMER COPY \*\* IVOICE CONTROL #310853



ORDER NO: 00204071

ORDERED BY:LAB SAFETY SUPPLY P.O. BOX 1368

JANESVILLE

SHIP TO: TERRY CATLIN

SUNKIST GROWERS INC

WI

616 E SUNKIST STREET

53547

ONTARIO

CA

JANESVILLE WI 53547

USA

MESSAGES:

ONTARIO CA 91761

USA

VIA - UPS UPS\_GROUND

DROP 12250

UPS UPS GROUND

PAGE 1

127646	USTOMER P.O.	NO.	CUST NO. 114380	ORDER D 4/2	ATE 5/00	SHIP DATE 5/25/00	F.O.8: PLT	UPS UPS	
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# **ATTACHMENT C**

Sunkist Growers Post Office Box 7888 Van Nuys, CA 91409-7888

Tel: (818) 986-4800



April 27, 2000

### **United States Environmental Protection Agency**

Region IX

75 Hawthorne Street

San Francisco, CA 94105-3901

Re:

Sunkist Growers, Inc.

FEIN: 95-0595000

Dear Sir or Madam:

Enclosed is a Certification of Non-Deductibility for the expenditures made on behalf of the Ontario Fire Department in compliance with the EPA settlement agreement dated April 17,2000 for the above referenced taxpayer for the year ended October 31, 2000.

Should you have any comments or questions, please call me at (818) 379-7469.

Very truly yours,

Andy Soemardi, C.P.A. Manager, Corporate Tax

**Enclosures** 

Cc(w/o attachments): O. Belletto, T. Catlin, B. Eldridge, R. French, T. Moore, K. Moyer, R. Peterson, W. Wells

\\FS2\\SYS\OEMARDI\\Word data\\Sunkist Growers Inc\\Sales & Other Taxes\U.S. Environmental Protection Agency\04-27-00 Civil Penalty Cover Letter.doc

### Certification of Non-Deductibility of Charitable Contribution

I hereby certify that on the date below, Sunkist Growers, Inc., in compliance with settlement agreement with the United States Environmental Protection Agency dated April 17, 2000, will **not deduct** \$6,779 paid to purchase emergency response equipments for City of Ontario Fire Department from its taxes due for the fiscal year-end October 31, 2000.

04/27/2000

Date

Tax Department, Manager

Sunkist Growers, Inc.

6/5/00

12:39 PAGE 2/3

RightFAX



ORIGINAL INVOICE

ATTACHMENT D



JANESVILLE WI 53547-1368 USA

LAB SAFETY SUPPLY INC 401 S. WRIGHT RD

FAX: (800) 543-9910

PO BOX 1368 PHONE: (800) 356-0783

FEI #39-1726218

90-10 FO

SUNKIST GROWERS INC PO BOX 7888

VAN NUYS, CA 91409-7888

S I I

ATTN:TERRY CATLIN SUNKIST GROWERS INC 616 E SUNKIST ST ONTARIO, CA 91761-1721

ACCOUNT NUMBER: 0000125377

INVOICE NUMBER: B7502140

INVOICE DATE: 04/25/00

PAGE:

1 OF 2

**CUSTOMER REQ. NUMBER:** 

BUYER:

IRENE MILLER

CARRIER:

UPS GROUND

FOB:

DESTINATION

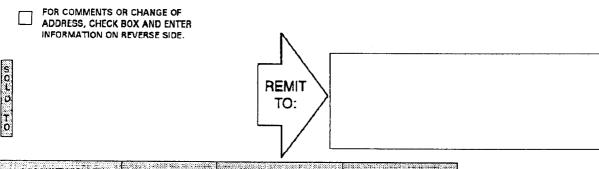
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QTY. ORD	OTY SHIP.	PRODUCT NUMBER	DESCRIPTIO	Ŋ	UM	UNIT PRICE	AMOUNT
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2	0	+*37703XXL * ITEM IS BACKORD	GUNTERSVILLE HAZMAT RSPNDF ERED AND WILL S		EA 05/09/00	618.76	0.00
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INVOICE2







LAB SAFETY SUPPLY INC 401 S. WRIGHT RD

FAX: (800) 543-9910

PO BOX 1368 PHONE: (800) 356-0783 JANESVILLE WI 53547-1368 USA

FEI #39-1726218

OF CFO

SUNKIST GROWERS INC PO BOX 7888 VAN NUYS, CA 91409-7888 D I P TO

ATTN:TERRY CATLIN SUNKIST GROWERS INC 616 E SUNKIST ST ONTARIO, CA 91761-1721

ACCOUNT NUMBER: 0000125377

**CUSTOMER REQ. NUMBER:** 

BUYER:

FOB:

IRENE MILLER

INVOICE DATE: 04/25/00

CARRIER:

UPS GROUND DESTINATION

PAGE:

INVOICE NUMBER: B7502140

2 OF 2

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WEIGHT: 73 LB 0 OZ

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AMOUNT DUE: 732.93 DUE DATE: 05/25/00

TERMS: 1% 10 - NET 30

ALL AMOUNTS ARE PAYABLE IN U.S. DOLLARS

SUBTOTAL: PERMITS/DUTIES: 0.00 BROKER'S FEES: 0.00 SHIPPING: 109.73 TAXES: 0.00 TOTAL: 732.93

DO NOT STAPLE

PLEASE DETACH THIS PORTION AND RETURN WITH YOUR PAYMENT

FOR COMMENTS OR CHANGE OF ADDRESS, CHECK BOX AND ENTER INFORMATION ON REVERSE SIDE.



SUNKIST GROWERS INC PO BOX 7888 VAN NUYS, CA 91409-7888



LAB SAFETY SUPPLY INC ACCOUNT #0000125377 PO BOX 5004 JANESVILLE WI 53547-5004

ACCOUNT NUMBER	DATE	INVOICE NUMBER	AMOUNT DUE
0000125377	04/25/00	B7502140	732.93

INVOICE2 310











LAB SAFETY SUPPLY INC 401 S. WRIGHT RD

PO BOX 1368

JANESVILLE WI 53547-1368 USA FEI #39-1726218

FAX: (800) 543-9910

PHONE: (800) 356-0783

MOND. TO

SUNKIST GROWERS INC PO BOX 7888 VAN NUYS, CA 91409-7888 P T O

ATTN:TERRY CATLIN SUNKIST GROWERS INC 616 E SUNKIST ST ONTARIO, CA 91761-1721

ACCOUNT NUMBER:

0000125377

**CUSTOMER REQ. NUMBER:** 

1 OF 1

BUYER: IRENE MILLER

INVOICE NUMBER: B7502141 INVOICE DATE: 05/01/00

CARRIER: UPS GROUND

PAGE:

FOB:

DESTINATION

PURCHASE ORDER NO: 12250

**DATE SHIPPED:** 

04/26/00

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2	0	+*37703XXL	HAZMAT RSPNDF	LV A-FRONT ENTRY	EA	618.76	0.00
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ALL AMOUNTS ARE PAYABLE IN U.S. DOLLARS

TAXES: 0.00 TOTAL: 2,559.38

DO NOT STAPLE

PLEASE DETACH THIS PORTION AND RETURN WITH YOUR PAYMENT



FOR COMMENTS OR CHANGE OF ADDRESS, CHECK BOX AND ENTER INFORMATION ON REVERSE SIDE.

TERMS: 1% 10 - NET 30

SOLD FO

SUNKIST GROWERS INC PO BOX 7888 VAN NUYS, CA 91409-7888



LAB SAFETY SUPPLY INC ACCOUNT #0000125377 PO BOX 5004

JANESVILLE WI 53547-5004

ACCOUNT NUMBER	DATE	INVOICE NUMBER	AMOUNT DUE
0000125377	05/01/00	B7502141	2,559.38

INVOIC06 3850







LAB SAFETY SUPPLY INC 401 S. WRIGHT RD

FAX: (800) 543-9910

PHONE: (800) 356-0783

JANESVILLE WI 53547-1368 USA

FEI #39-1726218

SOLD. FO

SUNKIST GROWERS INC PO BOX 7888

VAN NUYS, CA 91409-7888

P 70

PO BOX 1368

ATTN:TERRY CATLIN SUNKIST GROWERS INC 616 E SUNKIST ST ONTARIO, CA 91761-1721

ACCOUNT NUMBER: 0000125377

INVOICE NUMBER: B7502142 INVOICE DATE: 05/08/00

PAGE:

1 OF 1

CUSTOMER REQ. NUMBER:

BUYER:

IRENE MILLER

CARRIER:

UPS GROUND

FOB:

DESTINATION

PURCHASE ORDER NO: 12250

DATE SHIPPED:

05/02/00

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ALL AMOUNTS ARE PAYABLE IN U.S. DOLLARS

SUBTOTAL: ERMITS/DUTIES: 0.00 BROKER'S FEES: 0.00 SHIPPING: 0.00 91761 TAXES: 0.00 TOTAL: 2,250.04

DO NOT STAPLE



PLEASE DETACH THIS PORTION AND RETURN WITH YOUR PAYMENT 👚



FOR COMMENTS OR CHANGE OF ADDRESS, CHECK BOX AND ENTER INFORMATION ON REVERSE SIDE.

SOLO FO

SUNKIST GROWERS INC PO BOX 7888 VAN NUYS, CA 91409-7888 REMIT TO:

LAB SAFETY SUPPLY INC ACCOUNT #0000125377 PO BOX 5004

JANESVILLE WI 53547-5004

ACCOUNT NUMBER	DATE	INVOICE NUMBER	AMOUNT DUE
0000125377	05/08/00	B7502142	2,250.04

INVOICOS 3727











LAB SAFETY SUPPLY INC 401 S. WRIGHT RD FAX: (800) 543-9910

PO BOX 1368 PHONE: (800) 356-0783

JANESVILLE WI 53547-1368 USA FEI #39-1726218

O- OFO

SUNKIST GROWERS INC PO BOX 7888 VAN NUYS, CA 91409-7888 SH-P TO

ATTN:TERRY CATLIN SUNKIST GROWERS INC 616 E SUNKIST ST ONTARIO, CA 91761-1721

ACCOUNT NUMBER:

0000125377

INVOICE NUMBER: B7502143

INVOICE DATE: 05/30/00

PAGE:

1 OF 1

**CUSTOMER REQ. NUMBER:** 

BUYER:

IRENE MILLER

CARRIER:

UPS GROUND

FOB:

DESTINATION

PURCHASE ORDER NO: 12250

DATE SHIPPED:

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AMOUNT DUE: 1,237.52

DUE DATE: 06/29/00 TERMS:1% 10 - NET 30 ALL AMOUNTS ARE PAYABLE IN U.S. DOLLARS

SUBTOTAL: 1,237,52 PERMITS/DUTIES: 0.00 BROKER'S FEES: 0.00 SHIPPING: TAXES: 0.00 TOTAL: 1,237.52

DO NOT STAPLE



PLEASE DETACH THIS PORTION AND RETURN WITH YOUR PAYMENT



FOR COMMENTS OR CHANGE OF ADDRESS, CHECK BOX AND ENTER INFORMATION ON REVERSE SIDE.

SOLO TO

SUNKIST GROWERS INC PO BOX 7888 VAN NUYS, CA 91409-7888



LAB SAFETY SUPPLY INC ACCOUNT #0000125377 PO BOX 5004

JANESVILLE WI 53547-5004

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SENDER: COMPLETE THIS SECTION	V	COMPLETE THIS SECTIO	ON ON DELIVE	RY
■ Complete items 1, 2, and 3. Also conitem 4 if Restricted Delivery is desired.  ■ Print your name and address on the isso that we can return the card to you.  ■ Attach this card to the back of the more on the front if space permits.  1. Article Addressed to:  **Risbert** Eldudge**  **Director of Operation**  **Bunkist** Sumkist**  **Ontanio**, CA 9/7-6/	mplete d. reverse J. iailpiece,	A. Received by (Please Prince)  C. Signature  X  D. Is delivery address differentify YES, enter delivery address differentify YES, enter delivery address differentified Mail	ent from item 1 ddress below:  Express Mail Return Receipt C.O.D.	Date of Delivery 2 0 2000  Agent Addressee
2. Article Number (Copy from service label)  2 - 33/ - 743 - 060				
PS Form 3811, July 1999	Domestic Ret	urn Receipt		102595-99-M-1789

First-Class Mail Postage & Fees Paid USPS Permit No. G-10

Sender: Please print your name, address, and ZIP+4 in this box.

Chirt Senter (wst-3-1)

U.S. Elt

75 Hawtham St.

Jan Francisco (A 94103.

### Ž 331 743 060

US Postal Service

Receipt for Certified Mail

No Insurance Coverage Provided.

Do not use for International Mail (See reverse)

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### Stick postage stamps to article to cover First-Class postage, certified mail fee, and charges for any selected optional services (See front).

- 1. If you want this receipt postmarked, stick the gummed stub to the right of the return address leaving the receipt attached, and present the article at a post office service window or hand it to your rural carrier (no extra charge).
- 2. If you do not want this receipt postmarked, stick the gummed stub to the right of the return address of the article, date, detach, and retain the receipt, and mail the article.
- 3. If you want a return receipt, write the certified mail number and your name and address on a return receipt card, Form 3811, and attach it to the front of the article by means of the gummed ends if space permits. Otherwise, affix to back of article. Endorse front of article RETURN RECEIPT REQUESTED adjacent to the number.
- 4. If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse **RESTRICTED DELIVERY** on the front of the article.
- 5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.
- 6. Save this receipt and present it if you make an inquiry.

102595-97 8.0145



### UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

### REGION IX

### 75 Hawthorne Street San Francisco, CA 94105-3901

April 17, 2000

CERTIFIED MAIL NO. 2331 743 060 RETURN RECEIPT REQUESTED

In Reply: WST-3-1

Refer to: CAD981412828

Robert Eldridge, Director of Operations Sunkist Growers, Inc. 760 E. Sunkist Street Ontario CA 91761-1862

Re: Sunkist Growers, Inc.

Docket No. RCRA-09-0006

Dear Mr. Eldridge:

Enclosed is your copy of the fully executed Consent Agreement and Consent Order which contains the terms of the settlement reached with Michael Hingerty of the Office of Regional Counsel.

Your completion of all compliance actions enumerated in the Consent Agreement and Final Order will close this case. If you have any questions regarding the rules, regulations and statutes which govern the proceedings terminated by the enclosed document, please contact Clint Seiter at 415-744-2141.

Sincerely,

Julie Anderson

Director

Waste Management Division

1. lu Clakersa.

Enclosure

cc: Michael Hingerty, EPA

Paula Rasmussen, DTSC

# UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION IX

In the matter of	)	U.S. EPA Docket No.
	)	RCRA 09-99-0006
SUNKIST GROWERS, INC.	)	
EPA ID No. CAD 981412828	. )	CONSENT AGREEMENT
	)	AND
	)	FINAL ORDER
Respondent.	· )	•
_	)	

### **CONSENT AGREEMENT**

Complainant, the United States Environmental Protection Agency ("Complainant" or "EPA"), having filed the Determination of Violation, Compliance Order and Notice of Right to Request a Hearing ("Complaint") on September 21, 1999, against Respondent, Sunkist Growers, Inc. ("Respondent"); and

Complainant and Respondent, the Parties herein, having agreed that settlement of this matter is in the public interest, and that entry of this Consent Agreement and Final Order ("CA/FO") without further litigation is the most appropriate means of resolving this matter;

NOW, THEREFORE, Complainant and Respondent hereby agree as follows:

### A. PRELIMINARY STATEMENT

1. EPA initiated this proceeding for the assessment of a civil penalty, pursuant to Section 3008(a)(1) of the Solid Waste Disposal Act, commonly referred to as the Resource Conservation and Recovery Act of 1976 ("RCRA"), as amended by the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. § 6928(a)(1), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 C.F.R. Part 22. The United States Environmental Protection Agency, Region IX ("U.S. EPA") instituted this action by service of a Determination of Violation, Compliance Order, and Notice of Right to Request a Hearing ("Complaint") to Sunkist Growers, Inc. ("Respondent"). The Complaint charged Respondent with violations of Sections 3002, 3004, and 3005 of RCRA, 42 U.S.C. §§ 6922, 6924, and 6925, and regulations adopted pursuant thereto, at the facility operated by Respondent at 616 East Sunkist Street, Ontario, CA 91761 ("the Facility").

### **B. JURISDICTION AND PROCEDURE**

- 2. Except as provided in Paragraph 3 below, Respondent neither admits nor denies any allegations of fact or law set forth in the Complaint. Respondent hereby agrees to waive any rights Respondent may have to a hearing on any issue relating to the factual allegations or legal conclusions set forth in the Complaint, including without limitation a hearing pursuant to Section 3008(b) of RCRA, 42 U.S.C. §6928(b). Respondent hereby consents to the issuance of this Consent Agreement and Final Order ("CA/FO") without adjudication.
- 3. For the purposes of this CA/FO only, Respondent admits and agrees that the EPA Administrator and Region IX Administrator have jurisdiction and authority over the subject matter of the action set forth in the Complaint and over Respondent pursuant to Section 3008 of RCRA, 42 U.S.C. §6928, and 40 C.F.R. §§ 22.4(a) and 22.37. Respondent consents to and agrees not to contest EPA's jurisdiction and authority to enter into and issue this CA/FO and to enforce its terms. Further, Respondent will not contest EPA's jurisdiction and authority to compel compliance with this CA/FO in any enforcement proceedings, either administrative or judicial, or to impose sanctions for violations of this CA/FO as provided herein.

### C. CIVIL PENALTY

Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), as adjusted by the Debt Collection 4. Improvement Act of 1996, see 61 Fed. Reg. 69360 (Dec. 31, 1996), authorizes a civil penalty of up to TWENTY-FIVE THOUSAND DOLLARS (\$25,000) per day per violation for violations of Subtitle C of RCRA, 42 U.S.C. § 6921 et seq., occurring before January 31, 1997 and TWENTY-SEVEN THOUSAND, FIVE HUNDRED DOLLARS (\$27,500) per day for violations of the same statute occurring on January 31, 1997 or thereafter. Based upon the facts alleged herein and upon those factors which the Complainant must consider pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. §6928(a)(3), and the RCRA Civil Penalty Policy, including the seriousness of the violations, any good faith efforts by the Respondent to comply with applicable requirements, and any economic benefit accruing to the Respondent, as well as such other matters as justice may require, the Complainant proposes that the Respondent be assessed NINETEEN THOUSAND SIX HUNDRED AND FIFTY SIX DOLLARS (\$19,656) as the civil penalty for the violations alleged herein. The proposed penalties were calculated in accordance with the "October 1990 RCRA Civil Penalty Policy," as adjusted by the Debt Collection Improvement Act. Under the penalty policy, EPA uses a penalty assessment matrix, which is then adjusted to take into account multi-day violations, for case-specific circumstances, and for the economic benefit gained from non-compliance, where appropriate.

### D. PAYMENT OF CIVIL PENALTY/COMPLIANCE ORDER

5. Respondent consents to the assessment of and agrees to pay a civil penalty of NINETEEN THOUSAND SIX HUNDRED AND FIFTY SIX DOLLARS (\$19,656) and perform a Supplemental Environmental Project described below in full settlement of the civil penalty

claims made in the Complaint.

6. Respondent shall submit payment of the NINETEEN THOUSAND SIX HUNDRED AND FIFTY SIX DOLLARS (\$19,656) civil penalty within thirty (30) calendar days of the Effective Date of this CA/FO. The Effective Date of this CA/FO is the date EPA signs the Final Order. Payment shall be made by Funds Transfer Deposit (EPA Form 2570-6) through the Federal Reserve Communication System (FRCS) to the account of the U.S. Treasury at the Federal Reserve Bank of New York. At the time payment is so made, a copy of EPA Form 2570-6 shall be sent to:

Regional Hearing Clerk (RC-1)
U.S. Environmental Protection Agency - Region IX
75 Hawthorne Street
San Francisco, CA 94105

Frances Schultz (WST-3-1)
Waste Management Division
U.S. Environmental Protection Agency - Region IX
75 Hawthorne Street
San Francisco, CA 94105

- 7. In accordance with the Debt Collection Act of 1982 and U.S. Treasury directive (TFRM 6-8000), the payment must be received within thirty (30) calendar days of the Effective Date of this CA/FO to avoid additional charges. If payment is not received within thirty (30) calendar days, interest will accrue from the Effective Date of this CA/FO at the current rate published by the United States Treasury as described at 40 C.F.R. §13.11. A late penalty charge of \$15.00 will be imposed after thirty (30) calendar days with an additional \$15.00 charge for each subsequent 30-day period. A 6% per annum penalty will further apply on any principal amount not paid within ninety (90) calendar days of the due date. Respondent further will be liable for stipulated penalties as set forth below for any payment not received by its due date.
- 8. **Supplemental Environmental Project.** Within forty-five (45) days of the effective date of this CA/FO, Respondent shall purchase the following emergency response equipment for the City of Ontario Fire Department (Ontario FD) at a cost of at least SIX THOUSAND SEVEN HUNDRED AND SEVENTY NINE DOLLARS (\$6,779): Six Kappler Responder Level A Vapor Protective Suits; Five Packages Chemical Sorbent Mini-Booms; and One GasTech Sample Draw GT-402 Series Kit. Respondent shall either direct the supplier to deliver the equipment directly to the Ontario FD or will deliver the equipment to the Ontario FD within fifteen (15) days of receipt.

A. Within fifteen (15) days after delivery to the Ontario FD, Respondent shall certify to EPA that the supplemental environmental project is complete and submit copies of the documentation that the Ontario FD has taken delivery of the emergency response equipment

specified in this paragraph above.

- B. Any public statement, oral or written, made by Respondent making reference to the SEP shall include the following language, "This project was undertaken in connection with a settlement agreement with the U.S. Environmental Protection Agency." Respondent agrees that it will not deduct the cost of the supplemental environmental project from its taxes.
- C. Within fifteen (15) days after completion of the supplemental environmental project, Respondent will provide Complainant a certification that it has not deducted the supplemental environmental project expenditures from its taxes.

### E. DELAY IN PERFORMANCE/STIPULATED PENALTIES

- 9. In the event Respondent fails to meet any requirement set forth in this CA/FO, Respondent shall pay stipulated penalties as set forth below.
  - a) for a failure to submit a payment to EPA by the time required in this CA/FO: TEN THOUSAND DOLLARS (\$10,000) per day for the first to fifteenth day of delay; TWENTY THOUSAND DOLLARS (\$20,000) per day for the sixteenth to thirtieth day of delay; and TWENTY-FIVE THOUSAND DOLLARS (\$25,000) per day for each day of delay thereafter; and
  - b) for failure to submit a deliverable or failure to perform work in a timely manner, including failure to meet any of the deadlines in paragraph 8 above: TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500) per day for the first to fifteenth day of delay; FIVE THOUSAND DOLLARS (\$5,000) per day for the sixteenth to thirtieth day of delay; and TEN THOUSAND DOLLARS (\$10,000) per day for each day of delay thereafter.
- 10. All penalties shall begin to accrue on the date that performance is due or a violation occurs, and shall continue to accrue through the final day of correction of the noncompliance. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations.
- 11. All penalties owed to EPA under this Section shall be due within thirty (30) days of receipt of a notification of noncompliance. Such notification shall describe the noncompliance and shall indicate the amount of penalties due. Interest at the current rate published by the United States Treasury, as described at 40 C.F.R. § 13.11, shall begin to accrue on the unpaid balance at the end of the thirty-day period.

12. All penalties shall be made payable by certified or cashier's check to "Treasurer of the United States" and shall be remitted to:

U.S. Department of the Treasury Attn: EPA Region IX Hearing Clerk P.O. Box 360863M Pittsburgh, PA 15251

13. All payments shall indicate the name of the Facility, EPA identification number of the Facility, the Respondent's name and address, and the EPA docket number of this action. At the time payment is made, Respondent shall send a copy of the payment transmittal to:

Frances Schultz, WST-3-1 U.S. Environmental Protection Agency - Region IX 75 Hawthorne Street San Francisco, CA 94105

- 14. The payment of stipulated penalties shall not alter in any way Respondent's obligation to complete the performance required hereunder.
- 15. The stipulated penalties set forth in this Section do not preclude EPA from pursuing any other remedies or sanctions which may be available to EPA by reason of Respondent's failure to comply with any of the requirements of this CA/FO.
- 16. In the event Respondent fails to comply with any provision of the Final Order, then in accordance with Section 3008(c) of RCRA, 42 U.S.C. § 6928(c), Respondent may be liable for an additional civil penalty up to TWENTY-SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$27,500) for each day of continued noncompliance. Such continued non-compliance may also result in the institution of a civil or criminal judicial action.

### F. PARTIES BOUND

- 17. This CA/FO shall apply to and be binding upon Respondent and its agents, successors and assigns and upon all persons, independent contractors, contractors, and consultants acting under or for Respondent, until such time as the civil penalty required under Section D has been paid and any delays in performance and/or stipulated penalties have been resolved. At such time as those matters are concluded, this CA/FO shall terminate and constitute full settlement of the violations alleged herein.
- 18. No change in ownership or corporate, partnership or legal status relating to the Facility will in any way alter Respondent's obligations and responsibilities under this CA/FO.
- 19. Respondent shall give notice of this CA/FO to any successor in interest prior to transfer

of ownership or operation of Facility and shall notify EPA within seven (7) days prior to such transfer until the termination of this CA/FO.

20. The undersigned representative of Respondent hereby certifies that he or she is fully authorized by Respondent to enter into this CA/FO, to execute and to legally bind Respondent to it.

### G. OTHER CLAIMS

- 21. This CA/FO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 3008(a)(1) of RCRA, as amended, 42 U.S.C. § 6928(a)(1) for the violations alleged in the Complaint. Nothing in this CA/FO is intended to nor shall be construed to operate in any way to resolve any criminal liability of the Respondent. Compliance with this CA/FO shall not be a defense to any actions subsequently commenced pursuant to Federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with such laws and regulations.
- 22. EPA hereby reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, including the right to require that Respondent perform tasks in addition to those required by this CA/FO. EPA further reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, which may pertain to Respondent's failure to comply with any of the requirements of this CA/FO, including without limitation, the assessment of penalties under Section 3008(c) of RCRA, 42 U.S.C. §6928(c). This CA/FO shall not be construed as a covenant not to sue, release, waiver or limitation of any rights, remedies, powers or authorities, civil or criminal, which EPA has under RCRA, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), or any other statutory, regulatory or common law enforcement authority of the United States.
- 23. Compliance by Respondent with the terms of this CA/FO shall not relieve Respondent of its obligations to comply with RCRA or any other applicable local, State or federal laws and regulations.
- 24. The entry of this CA/FO and Respondent's consent to comply shall not limit or otherwise preclude EPA from taking additional enforcement actions should EPA determine that such actions are warranted except as it relates to those matters resolved by this CA/FO.
- 25. This CA/FO is not intended to be nor shall it be construed as a permit. This CA/FO does not relieve Respondent of any obligation to obtain and comply with any local, State or federal permits.
- 26. EPA reserves its right to seek reimbursement from Respondent for such additional costs incurred by the United States. Notwithstanding compliance with the terms of this CA/FO,

Respondent is not released from liability, if any, for the costs of any response actions taken by EPA.

27. Nothing in this CA/FO shall constitute or be construed as a release from any other claim, cause of action or demand in law or equity by or against any person, firm, partnership, entity or corporation for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from the Facility.

### H. MISCELLANEOUS

- 28. This CA/FO may be amended or modified only by written agreement executed by both EPA and Respondent.
- 29. Each party shall bear its own costs and attorneys fees in connection with the action resolved by this CA/FO.
- 30. The headings in this CA/FO are for convenience of reference only and shall not affect interpretation of this CA/FO.

### I. EFFECTIVE DATE

31. The Effective Date of this CA/FO is the date the Final Order is signed by EPA.

IT IS SQ AGREED.

Date

Robert Eldridge

Director

Plant Operations

Date

Julie Anderson

Director

Waste Management Division

United States Environmental Protection Agency,

Region IX

### **FINAL ORDER**

IT IS HEREBY ORDERED that this Consent Agreement and Final Order (U.S. EPA Docket No. RCRA 09-99-0004) be entered and that Respondent pay a civil penalty of NINETEEN THOUSAND SIX HUNDRED AND FIFTY SIX DOLLARS (\$19,656) by Funds Transfer Deposit through the Federal Reserve Communication System to the account of the U.S. Treasury at the Federal Reserve Bank of New York, within thirty (30) days after the Effective Date of this Consent Agreement and Final Order. A copy of the Funds Transfer Deposit Form shall be sent to the EPA Region IX address specified in Part E of this Consent Agreement and Final Order within such 30-day period. Respondent shall also perform all tasks required by the Consent Agreement.

This Final Order shall be effective immediately.

Date

Steven W. Anderson Regional Judicial Officer

United States Environmental Protection Agency,

Region IX

### **CERTIFICATION OF SERVICE**

I hereby certify that on the date below, the original copy of the foregoing Consent Agreement and Final Order, was filed with the Regional Hearing Clerk, Region 9, and that a copy was sent by certified mail, return receipt requested, to:

Robert Eldridge, Director of Operations Sunkist Growers, Inc. 760 E. Sunkist Street Ontario CA 91761-1862

and by First Class Mail to:

Kristen J. Moyer, Esq. P.O. Box 7888 Van Nuys CA 91409

Date	Waste Management Division
	U.S. Environmental Protection Agency

### **CERTIFICATION OF SERVICE**

I hereby certify that on the date below, the original copy of the foregoing Consent Agreement and Final Order, was filed with the Regional Hearing Clerk, Region 9, and that a copy was sent by certified mail, return receipt requested, to:

Robert Eldridge, Director of Operations Sunkist Growers, Inc. 760 E. Sunkist Street Ontario CA 91761-1862

and by First Class Mail to:

Kristen J. Moyer, Esq. P.O. Box 7888 Van Nuys CA 91409

Date

Waste Management Division

U. S. Environmental Protection Agency

bcc: O. Belletto, T. Catlin

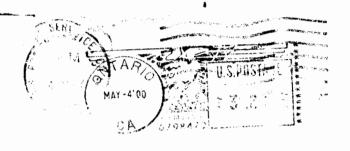
# Sunkist

# CERTIFIED

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Sunkist Growers Processed Products P.O. Box 3720 Ontario, CA 91761-0993





FRANCISCO, CA 94105



May 3, 2000

Sunkist Growers Processed Products P.O. Box 3720 Ontario, CA 91761-0993 Tel: (909) 983-9811

Regional Hearing Clerk (RC-1)
U.S. Environmental Protection Agency - Region IX
75 Hawthorne Street
San Francisco, CA 94105

\*\*\* Certified Return Receipt \*\*\*
Z 338 357 132

Frances Schultz (WST-3-1)
Waste Management Division
U.S. Environmental Protection Agency - Region IX
75 Hawthorne Street
San Francisco, CA 94105

\*\*\* Certified Return Receipt \*\*\*
Z 338 357 133

Subject: Sunkist Growers, Inc., Docket No. RCRA 09-99-0006

Dear Sir/Madam,

In partial compliance with the executed Consent Agreement and Final Order (CA/FO), the following information is supplied.

- 1. In accordance with Section D, Item 6 of the CA/FO, payment of NINETEEN THOUSAND SIX HUNDRED AND FIFTY SIX DOLLARS (\$19,656) was wire transferred on April 25, 2000 at 12:25 PM to the Federal Reserve Bank of New York by Sunkist Growers, Inc. ("Sunkist"). Sunkist executed the transaction directly (see attachment A). Consequently, EPA Form 2570-6 was not utilized in the recording of the transfer. However, per Mr. Charlie Lui's (EPA) instructions Sunkist can simply report the transaction herein this letter without the need for the submittal of a completed EPA Form 2570-6. Mr. Joe Schmidt (EPA) reported on May 1, 2000 that receipt of the wire transfer by EPA, Region IX had been electronically confirmed.
- 2. In accordance with Section D, Item 8 of the CA/FO, purchase of the emergency response equipment for the Ontario Fire Department (OFD) was made (see attachment B). The total order amount is SIX THOUSAND SIX HUNDRED SEVENTY DOLLARS AND FOURTEEN CENTS (\$6670.14). It is anticipated that the full amount of SIX THOUSAND SEVEN HUNDRED AND SEVENTY NINE DOLLARS (\$6779) agreed to in the CA/FO will be spent when the shipping costs are added, based upon the initial quote. Receipt of the actual invoice is pending.

Compliance Actions to Consent Agreement and Final Order (Docket No. RCRA 09-99-0006) U.S. Environmental Protection Agency, Region IX May 3, 2000 Page 2

- 3. In accordance with Section D, Item 8A of the CA/FO, partial delivery of the purchased emergency response equipment was made on May 3, 2000. The original letter certifying partial delivery is attached (see attachment C). Additionally, copies of the packing slips are also included in this attachment to demonstrate shipment and delivery dates. The remaining two items (Kappler Responder Level A Vapor Protective Suits) are currently backordered. Additional delivery certifications will be made upon delivery of these items to the OFD.
- 4. In accordance with Section D, Item 8B of the CA/FO, written language, exactly as indicated, was added to the delivery certification letter (see attachment C) signed by the OFD representative to explicitly indicate the intent of the Supplemental Environmental Project (SEP). Additionally, a copy of the delivery certification was supplied to the OFD for their files.
- 5. In accordance with Section D, Item 8C of the CA/FO, compliance is pending. Upon receipt of the actual invoice to verify the total cost of the SEP, a letter certifying that expenditures for the SEP will not be deducted from Sunkist's taxes will be provided as required.

For additional information and/or further clarification, please contact Terry Catlin at (909)933-2264.

Sincerely,

Robert W. Eldridge

Director of Operations

/tc

attachments

- Attachment A, Sunkist Wire Transfer Transaction, dated 04/25/00
- Attachment B, Purchase of Emergency Response Equipment for OFD (PO #12250)
- Attachment C, Partial Delivery Certification, dated May 3, 2000

cc: O. Belletto, T. Catlin, T. Moore, K. Moyer, R. Peterson, W. Wells (cafol.doc)



### | PAGF |

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# 21.21

# SUBMIT INVOICE IN DUPLICATE

# TC:

# Sunkist Growers, Inc.

Attention: Accounts Payable P.O. Box 7888, Mail Stop 368 Van Nuys, CA 91409-7888 (818) 379-7567

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**PHONE** 

ORDER DATE

80.0-356-0783 ÷.4

REQUESTED BY TERRY CATLIN

DELIVER TO

FOR DEVINS

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SHIP VIA

04/26/2000 F.O.B.

100047

VENDOR CODE

160

BUYER TERMS

1%40 NET+30 TAXABLE P.O. TYPE ACCOUNT NUMBER

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TOTAL ORDER

<b>AGENT</b>	
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MITABLERY

## SUBMIT INVOICE IN DUPLICATE

TQ:

Sunkist Growers, Inc.

Attention: Accounts Payable P.O. Box 7888, Mail Stop 368 Van Nuys, CA 91409-7888 (818) 379-7567

SHIP TO

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LAE GAFETT SUPPL F.O BOX 1368

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VV

53547-1368

**BILL TO** 

Burrant Growers Inc. Auto, Research & TS Aport Capit PLL Box 7588 Mail Etop 389

Tayn, Muys. CA 91409-7853

none No. (000, 072-7667

**PHONE** 

ORDER DATE

F.O.B.

04/26/2000

300-356-0793

REQUESTED BY TERRY CATLIN

DELIVER TO **BOB DEVINS** 

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TAXABLE P.O. TYPE ACCOUNT NUMBER

PPD & ADD No

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DO NOT SUBSTITUTE WITHOUT OUR PERMISSION. THIS ORDER MAY BE ACCEPTED ONLY IN ACCORDANCE WITH THE TERMS SET FORTH HEREIN AND PER TERMS AND CONDITIONS ON THE FACE AND REVERSE SIDE OF THIS ORDER, THIS ORDER NUMBER MUST APPEAR ON ALL CONTAINERS, PACKING LISTS, BILLS OF LADING, INVOICES AND CORRESPONDENCE.

**TOTAL ORDER** 

REQUESTOR COPY

# ATTACHMENT C



May 3, 2000

City of Ontario Fire Department 425 East "B" Street Ontario, CA 91764-4194 Sunkist Growers
Processed Products
P.O. Box 3720
Ontario, CA 91761-0993
Tel: (909) 983-9811

Attention: Fred C. Nelsen, Fire Chief

Dear Chief Nelsen,

Your signature (or that of a designate) below certifies that the Ontario Fire Department (OFD) has taken partial delivery on the date indicated of the emergency response equipment specified by OFD and listed below. The equipment is listed as follows:

Item	Quantity	Quantity	Description
	Delivered	Ordered	
1	Backordered	4 Each	Kappler Level A Vapor Protective Suits, Size XL
2	Backordered	2 Each	Kappler Level A Vapor Protective Suits, Size XXL
3	5 Packages	5 Packages	3M Chemical Sorbent Mini-Booms (3 Gal./Boom @ 4/Pkg.)
4	1 Each	1 Each	Gastech GT-402 Series Kit.

<sup>&</sup>quot;This project was undertaken in connection with a settlement agreement with the U.S. Environmental Protection Agency."

Signature: Authorized OFD Representative (Print Name)

Date of Delivery/Signature











APR 25, 2000

LAB SAFETY SUPPLY INC. PO BOX 1368 JANESVILLE WI U.S.A. 63547-1368 PHONE: (608) 764-2345 FAX: (608) 764-1806

SUNKIST GROWERS INC SOLD

PO BOX 7888 VAN NUYS

TO

CA 91409-7888

ATTN TERRY CATLIN SHIPPED SUNKIST GROWERS INC 616 E SUNKIST ST

ONTARIO

CA 91761-1721

UPS SHIPPER.WI 585-188

REF # B7502140

**PACKING** LIST

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REF# B750214

LAB SAFETY SUPPLY INC ATTN: RETURNS DEPARTMENT 401 S. WRIGHT ROAD **JANESVILLE WI 53546** 

Return Authorization #



Please see Return Form for return instructions.



# **PACKING SLIP**

PACKING SLIP NO. 13019609*1	1	04/26/2000				
SALES ORDER NO. 13019609	DATE ORDERE	25/00				
CUSTOMER PURCHASE ORDER NO. 42764	19	7,				
SHIPPED VIA	PPD PPD	Prep				

Gas Tech, Inc. 8407 Central Avenue Newark, CA 94560-3431 Phone: 510-794-6200 Fax: 510-794-6201

www.gastech-inc.com

Customer No.7700 Customer No.7699 LAB SAFETY SUPPLY TERRY CATLIN SOLD SHIP P.O. BOX 1368 SUNKIST GROWERS, INC. **JANESVILLE WI 53547-1368** 616 EAST SUNKIST STREET REF. CUSTOMER PO# 12250 USA TO TO ONTARIO, CA 91761-1721 USA

ITEM		PRODUCT/	DESCRIPTIO	N	OTY ORDERED	QTY SHIPPED	QTY B.O.	BIN NO	SERIAL NO
	72-6100-08	ACCES AND SO	Depositori de de	Service Commencer	1	1		FN	0015075
	GT-402 FIEL	D KIT, NIC	D						
	Group# 1	Group# 2	Group#	3 Group	# 4	arees and the second			
	Std Calib	OXYGEN	MET	HANE	METHANE	CO			
20.000	Sensor PN	65-0612			23 65-2426				
	Range	0-30.0% V	VOL 0-100	0% LEL 0	-10,000 PPM (	)-300 PPM			고영왕에 된 말에게보다 그리는 이명
	Low Alarm	19.5%	VOL 105	% LEL	1000 PPM 2	5 PPM			
	Hi Alarm	23.5% V	OL 50%	LEL 50	000 PPM 20	0 PPM			
	TWA	N/A	N/A	N/A	25 PPM				
	STEL	N/A	N/A	N/A	200 PPM				
	Bias Vltg	N/A		2.2V	7FRO				
	Med Alarm	N/A	N/A	N/A	N/A				
S. 44 THE .		220 (889-45) 18							
38054055	FAX 608-7		2140						
assistant and	WUKK UK	DER# B7502	214U	SASSESSED PROM					

ARRIVED 04/28/00

Cace	Cone	lusion	Data	Sheet

	Company to the process of the company of the compan	Phone744-214	
A. (	Case and Facility Background	Date3-28-0	U
	1. OECA DOCKET System #09-99-0006		
	2. Court Docket/Regional Hearing Clerk Administrative Docket #		
	3. Case nameSunkist Growers, Inc		
	Information for one Facility: (If more facilities, attach additional pages.)		
	4.(a) EPA-FINDS facility identification #		
	(b) EPA Program ID # for the facilityCAD981412828		
	5. Facility NameSunkist Growers, Inc		
	5. Facility NameSunkist Growers, Inc 6. Facility Address: Street:760 E. Sunkist StCity:_OntarioS	St: _CAZip:_91761	-1862
	7.(a) Primary 4-digit SIC-code_2037 b) Other 4-digit SIC-codes,,		
	8. Dun & Bradstreet # (if applicable)		
	9.(a) EPA Lead AttorneyMichael Hingerty		
	(b) EPA Program ContactClint Seiter		
	10. Statute(s) and Section(s) violated (Not authorizing section nor CFR)_3008(a)_/	/	,
		<u>, , , , , , , , , , , , , , , , , , , </u>	
	11. Action Type		
	(a) Consent decree or court order resolving a civil judicial action X (b) Administrative Penalty Order (with/without injunctive relief)(c) Superfund administrative cost recovery agreement(d) Federal facility compliance agreement (not incl. RCRA matters(e) Field citation(f) Administrative Compliance Orders	s)	
	12. Administrative action date: Issued/Filed_9-20-99_Final Order_3-28-00		
	13. Authorizing section for administrative actions3008(a)/		
	14. Was this a multi-media action?Yes _x_No Check all that apply/make this action multi-media:inspectioncomplaint 15. Was this action a part of a community-based/geographic initiative?Yes _X_ 16. Was the Agency activity taken in response to Environmental Justice concerns? _X 17. Was Alternative Dispute Resolution used in this action?Yes _X_No	settlement No _Yes No	SEP
В.	Compliance Actions (Non-SEP Related)  18. What action did violator accomplish prior to receipt of settlement/order or will take to	to return to compli	ance or meet addl.
	requirements? This may be due to settlement/order requirements or otherwise required to an APO which did not specify compliance requirements). Where separate penalty and/connection w/same violations(s), report the following information for only one of those order.	/or compliance order	s are issued in
	Use Reduction Testing		
	Use Reduction Testing Auditing		
	Emissions/Discharge Change(install/modify controls) Monitoring/Sampling Storage/Disposal Change X Recordkeeping		<u>_X</u>
	Remediation Labeling/Manifesting		_^
	Restoration Reporting		•
	Removal Information Letter Resp RD/RA Permit Application	ponse	
	Training		_X
	Provide Site Access		
	Site Assessment RI/FS		
	No Action (Penalty Only) Other (please describe)		<del></del>
	•		
	19. Cost of actions described in item #18. (Actual cost data supplied by violator is prefered Physical actions: \$	red figure.)	
	(Left column) (Right column) 20.(a) Quantitative environmental impact of actions described in item #18: REDUCTIONS/ELIMINATIONS:		
	Pollutant code Pollutant /CAS # Amount Units	s (Percent)	Media
		(%)	
		(%)	<del></del>
		(%)	
		(%)	
		(%)	
		(%)	

RI	EPORTED INFORMATION:				
Po	ollutant	Pollutant code /CAS#	Amount	Units	Media
				**********	
_					
20 predicted be	.(b) Qualitative environmental im	pact of actions list	ed in item #18. Select	one or more of the follow	ing observed or
W Ec En	uman health protection: Actual_ orker protection: Actual_ osystem protection: Actual_ vironmental Restoration/Land Us her (please describe)	Potential_X Potential_X	Increased	s beyond compliance requoublic awareness Fed/St/local govt knowled	
C. Supplem 21.	(6) in-process	appropriate category  /technology modificati formulation/redesi als substitution nousekeeping/O&N recycling ciency/conservatio oration and Protect dits pliance Promotion ng and Preparedn	ications on ign M/training/inventory-o n ction		
. 22	SEP description _The SEP		rido for the	nurchage of o	morgongu rognongo
		_		-	ncipal responder to
	es at the Sunkist f	_		_	
	ent as necessary em	_		_	
	opler Responder Lev			-	<del>-</del> -
	Mini-Booms, and c	_		<del>-</del>	_
		nie Gasieci	n sample bla	w GI-402 Selle	:5
	Cost of SEP. Cost calculated by	the Project Model	is proformed \$ \$6	770	
	Is Environmental Justice address	_	-	, 113	
	(a) Quantitative environmental im and amount of reductions/e	•		ls and/or waste-streams.	
Pol	llutant N/A	Pollutant code/C/	AS# An	nount Units	(Percent) Media
					(%)
					(%)
					(%) (%)
					(%)
25.	(b) Qualitative environmental imp	oact of SEP. Select	t one or more of the fo	llowing predicted benefits	
Wo Eco En Inc Inc	man health protection: orker protection: osystem protection: vironmental restoration creased public awareness creased Fed/State/local govt. know her (please describe)	Actual Pote Pote	ential X_ntial		

D.	Penalty (if there is no penalty, enter 0 and pro	ceed to #28)			
	26.(a) Assessed Penalty	<b>\$_</b> \$20,656_			
	26.(b) (if shared) Federal share	\$			
	26.(c) (if shared) State or Local share	\$			
	27. For multi-media actions, Federal ar	nounts by statute:		Statute	Amount
					\$
					\$
E.	Cost Recovery				\$
	28. Amount cost recovery awarded:\$		EPA		
	\$ State and/or Lo	ocal Government	\$	other	

Please attach additional Conclusion Sheets or sheets of paper to provide information which does not fit on initial Case Conclusion Data Sheet.

#### **COMMUNICATION STRATEGY**

#### California RCRA Enforcement Action

U.S. EPA Issuance of RCRA 3008(a) Consent Agreement/Final Order To Sunkist Growers, Inc., 760 East Sunkist St., Ontario CA 91761-1862

Date of Action:

March 28, 2000

#### Action:

U.S. EPA will issue a RCRA 3008(a) Consent Agreement/Final Order in the Matter of Sunkist Growers, Inc. -- Docket No. RCRA 09-99-0006, (Respondent) c/o Robert Eldridge, Director of Operations, Sunkist Growers, Inc., 760 E. Sunkist Street, Ontario CA 91761-1862.

## **Key Outreach "Nuggets":**

Main thrust: EPA intends to strictly enforce all RCRA regulations governing facilities in the generation and management of hazardous wastes.

**Public Interest:** 

Low

**Project Officer:** 

Clint Seiter,

WST-3-1, 744-2141

**Section Chief:** 

Fran Schultz,

WST-3-1, 744-2148

Attorney :

Michael Hingerty,

RC-3, 744-1357

**Public Affairs:** 

Paula Bruin,

E-2, 744-1587

# Region 9 Communication Strategy: Issuance of RCRA 3008(a) Consent Agreement/Final Order to:

Robert Eldridge, Director of Operations Sunkist Growers, Inc. 760 East Sunkist St. Ontario, CA 91761

Projected Announcement Date: March 28, 2000

Materials to be Created:

By Whom:

"A": Complaint

Clint Seiter, WST-3-1

"B": Cover Letter to Complaint

Clint Seiter, WST-3-1

"C": Press Release

Paula Bruin, E-2

Note: For a complaint, day "O" begins the day EPA confirms receipt of the action document by the facility.

Audience	Timing	Staffer	Method	Materials
FACILITY MANAGEMENT: Robert Eldridge, Director of Operations	0	Clint Seiter	Cert Mail	A,B A,B
STATE AGENCIES: Larry Matz, DTSC, HQ	0	Clint Seiter	Mail	C only
Paula Rasmussen, DTSC, HQ	0	Clint Seiter Clint Seiter	Fax Mail	C B

#### ADDRESSES AND PHONE LIST:

Include name, address, phone, and fax number of the people being contacted.

Robert Eldridge, Director of Operations Sunkist Growers, Inc. 760 East Sunkist St., Ontario CA 91761 (909) 933-2393

Terry Catlin, Senior Manager Research/Technical Services Sunkist Growers, Inc. 760 East Sunkist St., Ontario CA 91761 (909) 983-9811

## Cal-EPA, DTSC HQ:

Larry Matz, Chief Statewide Compliance Division DTSC-HQ, Hazardous Waste Management Cal-EPA P.O. Box 806 Sacramento, CA 95812-0806

Phone:

(916) 445-2625

Fax:

(916) 327-4495

Paula Rasmussen DTSC 5796 Corporate Ave. Cypress, CA 90630 (714) 484-5394

### Cal-EPA, DTSC, SCD, Northern California Branch:

Charlene Williams, Chief Northern California Branch Statewide Compliance Division DTSC, Cal-EPA 700 Heinz Street Berkeley, CA 94710-2737 Phone: (510) 540-3855

Fax: (510) 540-3819

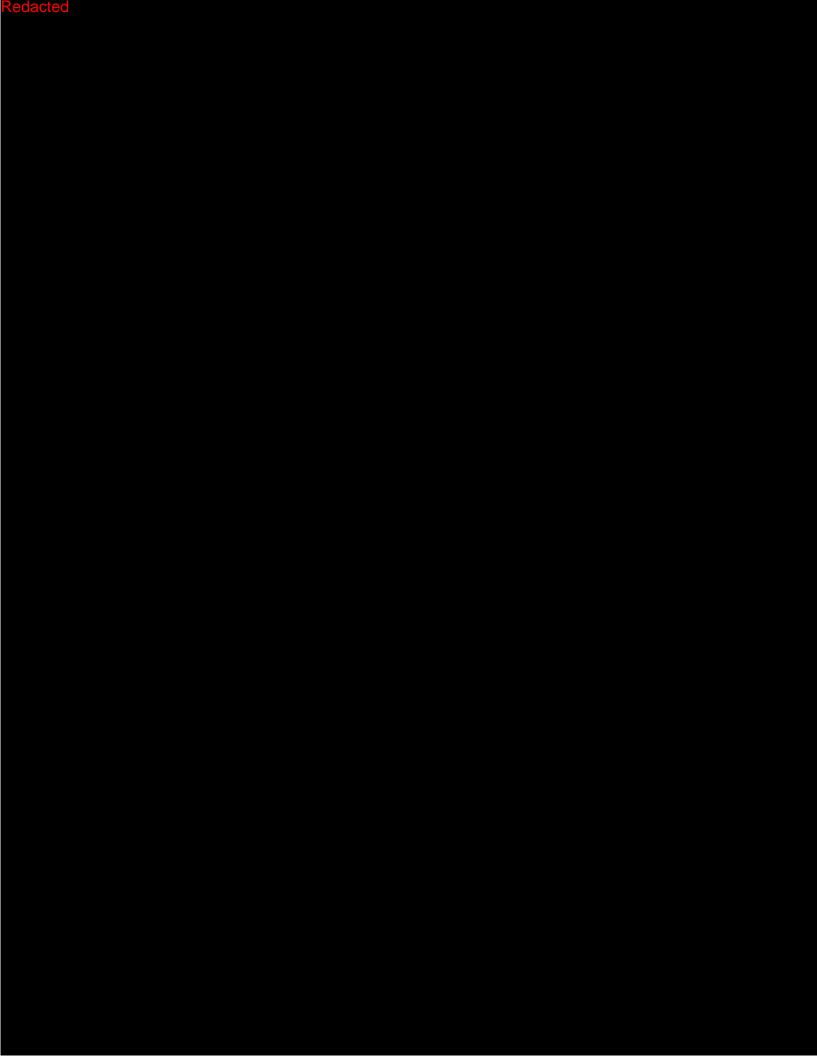
#### Cal-EPA, DTSC, SCD, Southern California Branch:

Florence Gharibian, Chief Southern California Branch Statewide Compliance Division DTSC, Cal-EPA 1011 N. Grandview Ave. Glendale, CA 91201 Phone: (818) 551-2925

Fax: (818) 551-2901

EPA Region 9:

Michael Hingerty, RC-3 4-1357







March 27, 2000

Sunkist Growers Processed Products P.O. Box 3720 Ontario, CA 91761-0993 Tel: (909) 983-9811

Michael B. Hingerty, Esquire Deputy Branch Chief U. S. Environmental Protection Agency Region IX 75 Hawthorne Street San Francisco, CA 94105

\*\*\* Return Receipt \*\*\*
Z 338 357 045

Re: CONSENT AGREEMENT AND FINAL ORDER

Dear Mr. Hingerty:

Enclosed please find duly signed duplicate originals of the Consent Agreement and Final Order.

Please give Kristen Moyer, Associate Counsel, a call when you receive them.

Sincerely,

Robert W. Eldridge

Director of Plant Operations

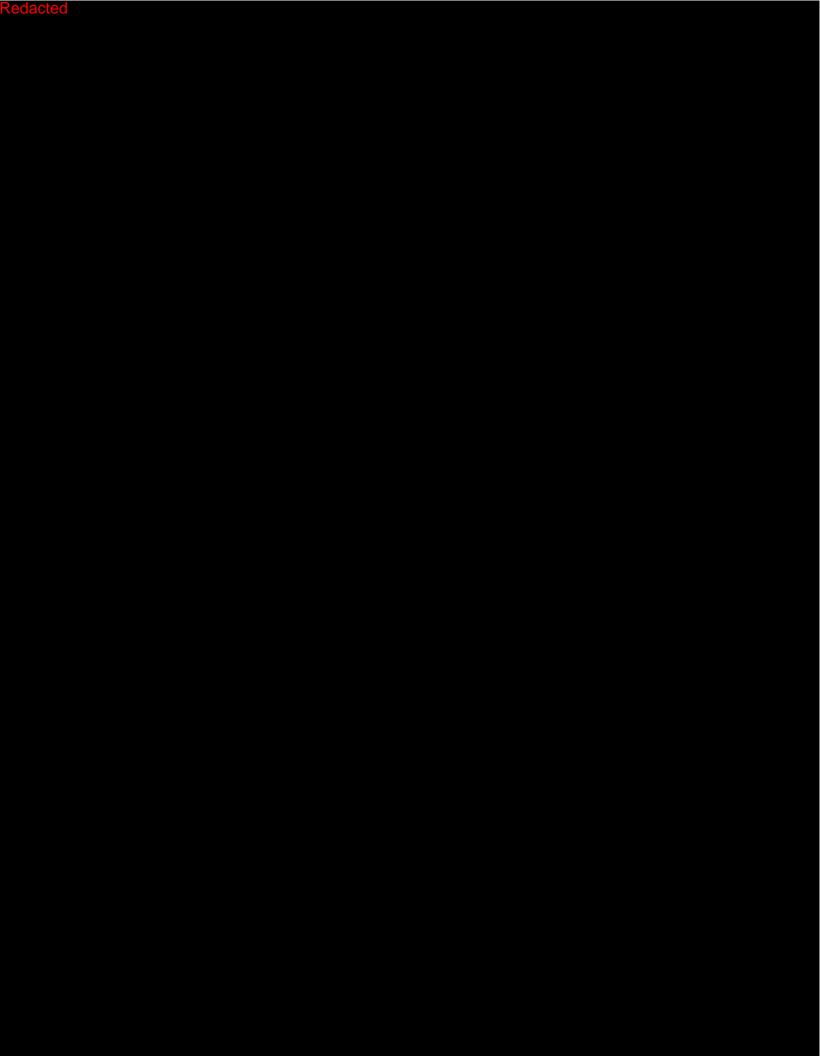
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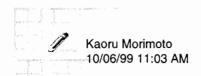
enclosures - Consent Agreement and Final Order (Docket No. RCRA 09-99-0006)

cc: K. Moyer (EPA\_CAFO.doc)









To:

TCATLIN@sunkistgrowers.com

cc:

Clint Seiter/R9/USEPA/US@EPA, Matt Strassberg/R9/USEPA/US@EPA

Subject: Re: Clarification Question RE: WST-3-1 Sunkist Growers

Terry,

Sorry, I didn't get back to you earlier. I've been out of the office the last couple of days.

This is in response to our telephone conversation of September 30, 1999 (and your subsequent e-mail below), regarding page 14, item 5, in the Compliance section of the Determination of Violation, dated September 20, 1999. I will also be forwarding a copy of this to Clint Seiter and to Matt Strassberg.

In response to your question:

Item 4 requires you to submit a training plan within 30 days of the effective date which:

- meets the requirements of 22 CCR 66265.16 (40 CFR 265.16),
- describes in detail the information required by 22 CCR 66265.16(d) [40CFR 265.16(d)],
- identifies the training that each employee **still needs** (e.g. employee last took "hazard communication training" in Jan. 98. Training plan shows that his/her job title requires an annual "hazard communication training" refresher. It's now Oct. 99. Therefore, this class would be identified as one the employee still needs to take.) with respect to their job title/position as related to hazardous waste management, and
- describes the facility's plan to train each individual (with respect to their job title/position as related to hazardous waste management) that still needs training. This paragraph also stipulates that the required training must be completed within 90 days of the effective date.

Item 5 requires you to submit evidence (for each individual that required training) within 90 days of the effective date that shows that each individual received the training.

If you have any questions on the above, write back or call me at (415)744-2143.

Kaoru Morimoto

TCATLIN@sunkistgrowers.com on 09/30/99 01:03:36 PM



TCATLIN@sunkistgrowers.com on 09/30/99 01:03:36 PM

To:

Kaoru Morimoto/R9/USEPA/US@EPA

CC:

Subject: Clarification Question RE: WST-3-1 Sunkist Growers

Mr. Morimoto,

I'm on my lunch break from jury duty.

In reference to p. 14, item 5 of the Compliance section, I need clarification. There is reference to both 90 days and 30 days. Evidence is required for both time periods and I not clear on what the distinction is between them. Does the 30 days refer to what is required in item 4 for a training plan?

Please advise. Thank you.

Terry Catlin





Awso?

M4+(1) 731-0788

## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION IX

#### DETERMINATION OF VIOLATION

#### A. INTRODUCTION

- 1. This is a civil administrative enforcement action instituted pursuant to Section 3008(a)(1) of the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. § 6928(a)(1), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation of Suspension of Permits, 40 C.F.R. Part 22. Complainant is the United States Environmental Protection Agency, Region IX ("EPA"). Respondent is Sunkist Growers, Inc. ("Respondent").
- 2. Respondent owns and operates a facility that engages in the production and sale of citrus products, including fresh oranges, lemons, grapefruits, and tangerines, as well as juice, juice concentrate and oil extract from these fruits and that is located at 616 East Sunkist Street, Ontario, CA 91761 (the "Facility"). The Facility's EPA Identification No. is CAD981412828.
- 3. This Determination of Violation, Compliance Order and Notice of Right to Request a Hearing ("Complaint") serves as notice that EPA, on the basis of information available to it, has determined that Respondent violated Sections 3002, 3004, and 3005, of RCRA, 42 U.S.C. §§ 6922, 6924, 6925, and regulations adopted pursuant thereto, and that Respondent has violated the Hazardous Waste Control Law, Chapter 6.5 of Division 20 of the

California Health and Safety Code, and regulations adopted pursuant thereto at Title 22, Division 4.5 of the California Code of Regulations ("CCR"), 22 CCR §§ 66001, et seq.

#### B. JURISDICTION

- 4. On August 1, 1992, the State of California received authorization to administer the hazardous waste management program in lieu of the federal program pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926 and 40 C.F.R. § 271. The authorized program is established pursuant to the Hazardous Waste Control Law, Chapter 6.5 of Division 20 of the California Health and Safety Code, and the regulations promulgated thereunder at Title 22, Division 4.5 of the California Code of Regulations ("CCR"), 22 CCR §§ 66001 et. seq. The State of California has been authorized for all the regulations referenced in this Complaint.
- 5. Respondent is a "person" as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), 40 C.F.R. §§ 260.10 and 270.2, and 22 CCR § 66260.10.
- 6. Respondent is a "generator" of hazardous waste as defined in 40 C.F.R. § 260.10 and 22 CCR § 66260.10.
- Respondent generates, or has generated, including but not limited to; Ignitable Waste (EPA Hazardous Waste No. D001), Corrosive Waste (EPA Hazardous Waste No. D002), Reactive Waste including Potassium Cyanide (EPA Hazardous Waste No. D003), and Waste that is toxic under the Toxicity Characteristic Leaching Procedure including Chromium (EPA Hazardous Waste No. D007), Arsenic (EPA Hazardous Waste No. D004), Methyl Ethyl Ketone Hazardous Waste No. D035), Sodium Hydroxide (EPA Hazardous Waste No. D005), Waste Mercury (EPA Hazardous Waste No. D009 and U151), 2,4, D Pesticide (EPA Hazardous Waste No.D016 and U240). Respondent also generates, or has generated, Nonhalogenated Solvent (EPA Hazardous Waste No. F003), Liquid Organic Toxics (EPA Hazardous Waste No. P044), and Inorganic Toxic Solid Waste (EPA Hazardous Waste No. P096) which are "hazardous wastes" as defined in Section 1004(5) of RCRA, 42 U.S.C. § 6903(5),40 C.F.R. §§ 260.10 and 261.3, and 22 CCR §§ 66260.10 and 66261.3.
- 8. On or about May 2, 1986, pursuant to Section 3010 of RCRA, 42 U.S.C. § 6930, Respondent submitted a Notification of Hazardous Waste Activity to EPA.
- 9. Respondent is, therefore, subject to the regulations adopted pursuant to Sections 3002, 3004, and 3005 of RCRA, 42 U.S.C. §§

- 6922, 6924, and 6925.
- 10. Federal regulations establishing hazardous waste generator standards, 40 C.F.R. Part 262, became effective on November 19, 1980. State of California regulations establishing hazardous waste generator standards, 22 CCR § 66262, became effective July 1, 1991.
- 11. On or about December 4, 1998, EPA conducted an inspection at the Facility.
- 12. EPA inspected the areas of Respondent's facility where hazardous waste is generated or accumulated and evaluated various documents supplied by Respondent. EPA also reviewed Respondent's responses to information requests which the EPA made pursuant to its authority under Section 3007 of RCRA, 42 U.S.C. 6927. On the basis of this inspection, evaluation, and review, EPA determined that Respondent has violated the Hazardous Waste Control Law, Article 5.5 of Chapter 6.5 of Division 20 of the California Health and Safety Code and regulations adopted pursuant thereto at 22 CCR §§ 66262.11, 66262.34, 66265.16, 66235.35, 66265.52, 66265.173, and 66270.1. [Sections 3002, 3005, 3014 of RCRA, 42 U.S.C. §§ 6922, 6925, 6935 and regulations adopted pursuant thereto at 40 C.F.R. §§ 262.11, 262.34, 265.16, 265.35, 262.52, 265.173, and 270.1].
- 13. Section 3006 of RCRA, 42 U.S.C. § 6926 provides, <u>interalia</u>, that authorized state hazardous waste programs are carried out under Subtitle C of RCRA. Therefore, a violation of any requirement of law under an authorized state hazardous waste program is a violation of a requirement of Subtitle C of RCRA.
- 14. Respondent, in violating requirements of California's authorized hazardous waste program, violated Subtitle C of RCRA, and therefore is subject to the powers vested in the EPA Administrator by Section 3008 of RCRA, 42 U.S.C. § 6928.
- 15. Section 3008 of RCRA, 42 U.S.C. § 6928, authorizes the EPA Administrator to issue orders requiring compliance immediately or within a specified time for violation of any requirement of Subtitle C of RCRA, Section 3001 of RCRA et seq., 42 U.S.C. §6921 et seq.
- 16. Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), provides that when a violation of Subtitle C of RCRA occurs in a state which has been authorized under Section 3006 of RCRA, 42 U.S.C. § 6926, the Administrator must notify an authorized state prior to issuing an order under Section 3008 of RCRA in

that state. EPA sent notice to the State of California Department of Toxic Substance Control as required by Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

17. The Administrator has delegated the authority under Section 3008 of RCRA to the EPA Regional Administrator for Region IX, who has redelegated this authority to the Director of the Hazardous Waste Management Division.

#### C. <u>VIOLATIONS</u>

#### COUNT I

(Failure to Comply with Regulations Regarding the Use and Management of Containers)

- 18. Paragraphs 1 through 17 above are incorporated here and by reference as if they were set forth here in their entirety.
- 19. CCR Title 22 § 66265.173(a), consistent with 40 C.F.R. § 265.173(a), requires that a container holding hazardous waste shall always be closed during storage, except when it is necessary to add or remove waste.
- 20. On December 4, 1998, EPA inspectors observed an open container in the Paint Storage Satellite Accumulation Area. T inspectors detected a heavy solvent odor and Respondent identified the contents of the drum as oil-based paint waste. Respondent's 1995 Biennial Report and its 1997 Hazardous Waste Log confirm that Respondent generates paint waste classified D001 (ignitable hazardous waste).

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21. Therefore Respondent has violated 22 CCR 66265.173(a) [40 C.F.R. § 265.173(a)].

#### COUNT II

#### (Inadequate Personnel Training)

- 22. Paragraphs 1 through 21 above are incorporated here and by reference as if they were set forth here in their entirety.
- 23. CCR Title 22 § 66265.16(a)(1), consistent with 40 C.F.R. § 265.16(a)(1), requires that facility personnel must complete instruction or training that teaches them to perform their duties in a way that ensures the facility's compliance with applicable requirements for storage of hazardous waste. In

- particular, this section requires that personnel complete the specific training elements associated with their job description.
- 24. CCR Title 22 § 66265.16(c), consistent with 40 C.F.R. § 265.16(c), requires that personnel participate in an annual review of the initial required training.
- 25. CCR Title 22 § 66265.16(d), consistent with 40 C.F.R. § 265.16(d), requires that, for every employee whose job is related to hazardous waste, records be maintained indicating their name and job title, their job description and required skills, the training required, and the training completed.
- 26. During the inspection, Respondent stated that approximately twenty employees at the facility handle hazardous waste routinely as part of their jobs. Respondent was unable to provide training records at the time of the inspection. EPA inspectors requested, and Respondent agreed to furnish, records identifying individuals and job titles, position descriptions, training requirements, and training completed for all individuals with positions related to hazardous waste.
- 27. Records supplied by Respondent in response to this request consist of a single job description, for the position Environmental Specialist, and training records for two employees, Richard Esparza and Joe Figueroa.
- 28. Accordingly, Respondent failed to maintain a list of employees and job titles that included each of the approximately twenty employees whose job is related to hazardous waste as required by 22 CCR 66265.16(d)(1) [40 C.F.R. §265.16(d)(1)].
- 29. Accordingly, Respondent also failed to document the training of each of the approximately twenty employees whose jobs are related to hazardous waste as required by 22 CCR 66265.16(d)(4)[40 C.F.R. § 265.16(d)(4)].
- 30. With respect to the two employees for whom records were produced, the training records indicate that their most recent training occurred more than a year prior to the inspection and that no annual review of initial training had been completed.
- 31. The job description provided by Respondent for the position Environmental Specialist indicates that Hazardous Waste Operator Training is required for employees filling that position. Training records for the two employees for whom records were supplied indicate that neither has received such training for

more than a year prior to the inspection.

- 32. Accordingly, Respondent failed to ensure that each employee take part in an annual review of initial training as required by 22 CCR § 66265.16(c) [40 C.F.R. § 265.16(c)].
- 33. Therefore Respondent has violated 22 CCR § 66265.16(d) [40 C.F.R. § 265.16(d)] and 22 CCR § 66265.16(c) [40 C.F.R. § 265.16(c)].

#### COUNT III

(Inadequate Preparedness and Prevention - Aisle Space)

- 34. Paragraphs 1 through 33 above are incorporated here and by reference as if they were set forth here in their entirety.
- 35. CCR Title 22 § 66265.35, consistent with 40 C.F.R. § 265.35, requires that aisle space sufficient to allow unobstructed movement of personnel, fire control equipment, spill control equipment, and decontamination equipment be maintained, unless it can be demonstrated that aisle space is not needed for any of these purposes.
- 36. On December 4, 1998, EPA inspectors observed that there were fourteen drums grouped together in the HSWA without aisle space prohibiting access to approximately one drum of RCRA hazardous waste and five drums of non-RCRA, California-only hazardous waste.
- 37. Therefore Respondent has violated 22 CCR § 66265.35 [40 C.F.R. § 265.35].

#### COUNT IV

#### (Inadequate Contingency Plan)

- 38. Paragraphs 1 through 37 above are incorporated here and by reference as if they were set forth here in their entirety.
- 39. CCR Title 22 § 66265.52, consistent with 40 C.F.R. § 265.52, requires that the contingency plan designed to minimize hazards from unplanned releases of hazardous materials include various elements. Among those required elements are a description of

arrangements agreed to by local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services; a list of emergency coordinators and a designation of the primary emergency coordinator; and a list of required emergency equipment and its location.

- 40. Respondent's contingency plan did not contain a description of arrangements agreed to by local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services. Nor did Respondent's contingency plan contain a designation of the primary emergency coordinator. Nor did Respondent's contingency plan contain the location of fire extinguishers.
- 41. Therefore Respondent has violated 22 CCR § 66265.52 [40 C.F.R. § 265.52].

#### COUNT V

(Operating a Hazardous Waste Storage Facility Without a Permit)

- 42. Paragraphs 1 through 41 above are incorporated here and by reference as if they were set forth here in their entirety.
- 43. CCR Title 22 § 66270.1(c), consistent with 40 C.F.R. § 270.1(c), requires each person owning and operating a RCRA hazardous waste storage facility to have a permit.
- 44. Respondent does not have a permit to store hazardous waste under 22 CCR § 66270.1(c) [40 C.F.R. § 270.1(c)].
- 45. CCR Title 22 § 66262.34, consistent with 40 C.F.R. § 262.34, provides that generators of hazardous waste may accumulate hazardous waste on-site for a limited period of time, without a permit or grant of interim status, provided the generator complies with the requirements which are set forth in or referenced by 22 CCR § 66262.34 [40 C.F.R. § 262.34]. Those requirements include the following identified in paragraphs 46 through 52.
- 46. CCR Title 22 § 66262.34(a)(3), (e)(1)(E) and (f)(3) [40 C.F.R. § 262.34(a)(3) and (c)(1)(ii)] require that generators who accumulate hazardous waste on-site may only do so without a permit or grant of interim status if they label containers with the words "Hazardous Waste."
- 47. CCR Title 22 § 66262.34(a)(2), (a)(3), (f)(1), and (e)(1)(C)

- [40 C.F.R. § 262.34(a)(2) and (c)] require that generators who accumulate hazardous waste on-site may only do so without a permit or grant of interim status if they label containers with accumulation period start dates.
- 48. CCR Title 22 § 66262.34(e)(3) [40 C.F.R. § 262.34(c)(1)] requires that generators who accumulate hazardous waste on-site may only do so without a permit or grant of interim status if they limit hazardous waste accumulations at or near the point of generation to 55 gallons.
- 49. CCR Title 22 § 66262.34(a)(1)(A) [40 C.F.R. § 262.34(a)(1)(i)] requires that generators who accumulate hazardous waste on-site may only do so without a permit or grant of interim status if they comply with 22 CCR § 66265.173(a) [40 C.F.R. § 265.173(a)], which requires that containers be kept closed.
- 50. CCR Title 22 § 66262.34(a)(4) [40 C.F.R. § 262.34(a)(4)] requires that generators who accumulate hazardous waste on-site may only do so without a permit or grant of interim status if they comply with the personnel training regulations in 22 CCR § 66265.16 [40 C.F.R. § 265.16].
- 51. CCR Title 22 § 66262.34(a)(4) [40 C.F.R. § 262.34(a)(4)] requires that generators who accumulate hazardous waste on-site may only do so without a permit or grant of interim status if they comply with the aisle space requirements in CCR § 66265.35 [40 C.F.R. § 265.35].
- 52. CCR Title 22 § 66262.34(a)(4) [40 C.F.R. § 262.34(a)(4)] requires that generators who accumulate hazardous waste on-site may only do so without a permit or grant of interim status if they comply with the contingency plan requirements in CCR § 66265.52 [40 C.F.R. § 265.52].
- 53. Any generator who generates more than 100 kilograms per calendar month, or who generates less than 100 kilograms per calendar month but accumulates more than 1000 kilograms on site at any time, who fails to comply with the requirements of 22 CCR § 66262.34 [40 C.F.R. § 262.34] is subject to the permitting requirements of 22 CCR § 66270.1(c) [40 C.F.R. § 270.1(c)].
- 54. "Hazardous Waste" Labeling: Respondent failed to label or clearly mark each container containing hazardous waste with the words "Hazardous Waste" as required by 22 CCR § 66262.34(a)(3), (e)(1)(E) and (f)(3) [40 C.F.R. § 262.34(a)(3) and (c)(1)(ii)].

- 55. On December 4, 1998, EPA inspectors observed an open unlabeled container in the Paint Storage Satellite Accumulation Area. The inspectors detected a heavy solvent odor and Respondent identified the contents of the drum as paint waste. Respondent's 1995 Biennial Report and its 1997 Hazardous Waste Log confirm that Respondent generates paint waste classified D001 (ignitable hazardous waste). The container was not labeled or marked "Hazardous Waste."
- 56. Accumulation Period Start Date Labeling: Respondent failed to comply with the requirement that the date upon which each period of accumulation begins be clearly marked and visible for inspection on each container of hazardous waste as required by CCR Title 22 CCR § 66262.34(a)(2), (a)(3), (f)(1), and (e)(1)(C) [40 C.F.R. § 262.34(a)(2) and (c)].
- 57. On December 4, 1998, EPA inspectors observed in the HWSA a 55-gallon drum with ID number 1998315 labeled as "Waste Code D007 Hazardous Waste Solid," which did not have an accumulation start date on the label. Respondent advised that the drum had actually arrived at the area on November 19, 1998. Respondent's 1995 Biennial Report and its 1997 Hazardous Waste Log confirm that Respondent generates waste classified D007.
- 58. Satellite Accumulation Area Container Fill Date Labeling: With respect to hazardous waste accumulated at or near the point of generation, Respondent failed to mark the container holding the hazardous waste with the date on which the 55-gallon quantity limitation was reached and the date on which the 90-day accumulation period start date began as required by 22 CCR § 66262.34(e)(3), (a)(2), (a)(3), (f)(1), and (f)(2) [40 C.F.R. § 262.34(c)(2) and (a)].
- 59. On December 4, 1998, EPA inspectors observed in the HWSA a 55-gallon drum ID labeled 1998282, further labeled "D001 and California Waste Code 342 Combustible Liquids 7/30/98." Respondent's 1995 Biennial Report and its 1997 Hazardous Waste Log confirm that Respondent generates waste classified D001 [ignitable waste]. Respondent advised the inspectors that its Hazardous Waste Storage Area log book confirmed that the drum was moved to the HWSA from a satellite accumulation area on October 1, 1998 and that the date "7/30/98" was the accumulation start date at the satellite accumulation area. Respondent stated that a new date should have been added to the label when the drum was moved.
- 60. Open Containers: CCR Title 22 § 66262.34(a)(1)(A) [40 C.F.R.

- § 262.34(a)(1)(i)] requires that a generator of hazardous waste who accumulates hazardous waste on-site must comply with 22 CCR § 66265.173(a) [40 C.F.R. § 265.173(a)], which requires that a container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.
- 61. One of Respondent's containers of hazardous waste were closed during storage, as set forth in paragraphs 18 through 21 above, which are incorporated here and by reference as if they were set forth here in their entirety.
- 62. **Inadequate Training:** CCR Title 22 § 66262.34(a)(4) [40 C.F.R. § 262.34(a)(4)] requires that a generator of hazardous waste who accumulates hazardous waste must comply with the personnel training regulations set forth in 22 CCR § 66265.16 [40 C.F.R. § 265.16].
- 63. Respondent failed to comply with the personnel training requirements of 22 CCR § 66265.16 [40 C.F.R. § 265.16] as set forth in paragraphs 22 through 33 above, which are incorporated here and by reference as if they were set forth here in their entirety.
- 64. Inadequate Preparedness and Prevention Aisle Space: CCR Title 22 § 66262.34(a)(4) [40 C.F.R. § 262.34(a)(4)] requires that a generator of hazardous waste accumulating hazardous waste on-site must comply with the Preparedness and Prevention regulations set forth in Article 3 of Chapter 15 of Title 22 of the California Code of Regulations, which includes the aisle space requirements set forth in CCR § 66265.35 [40 C.F.R. § 265.35].
- 65. Respondent failed to maintain adequate aisle space, as set forth in paragraphs 34 through 37 above, which are incorporated here and by reference as if they were set forth here in their entirety.
- 66. Inadequate Contingency Planning: CCR Title 22 § 66262.34(a)(4) [40 C.F.R. § 262.34(a)(4)] requires that a generator of hazardous waste accumulating hazardous waste on-site must comply with the Contingency Plan and Emergency Procedures regulations set forth in Article 4, Chapter 15, Title 22 of the California Code of Regulations, which includes the contingency plan content requirements set forth in CCR § 66265.52 [40 C.F.R. § 265.52].
- 67. Respondent failed to maintain a contingency plan meeting the

requirements of CCR § 66265.52 [40 C.F.R. § 265.52], as set forth in paragraphs 38 through 41 above, which are incorporated here and by reference as if they were set forth here in their entirety.

Therefore Respondent has violated 22 CCR § 66270.1(c) [40] C.F.R. § 270.1(c)] and 22 CCR § 66262.34 [40 C.F.R. § 262.34].

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42 U.S.C. \$6928 (g), authorizes a representation Dollars (\$25,000.00) 27500 abtitle C of RCRA, 42 U.S.C. \$6921 lleged in this 7 nant must consider pursuant to U.S.C. §6928(a)(3), and the RCRA

Civil Penalty Policy, including the seriousness of the violations, any good faith efforts by the Respondent to comply with applicable requirements, and any economic benefit accruing to the Respondent, as well as such other matters as justice may require, the Complainant proposes that the Respondent be assessed TWENTY-SIX THOUSAND SEVEN HUNDRED THIRTY DOLLARS (\$26,730) as the civil penalty for the violations alleged in this Complaint. proposed penalties were calculated in accordance with the "October 1990 RCRA Civil Penalty Policy." Under the penalty policy, EPA uses a penalty assessment matrix, which is then adjusted to take into account multi-day violations, for casespecific circumstances, and for the economic benefit gained from non-compliance, where appropriate.

#### Count I

#### Open Container.....\$4,400

Using the penalty assessment matrix, EPA classified Count I, open container, as presenting a moderate potential for harm and a minor deviation from the requirement. The potential for harm was moderate because there was a significant likelihood or risk of human exposure from the heavy fumes accumulated in an enclosed space. The extent of deviation from the regulation was minor because only one drum was involved. The penalty was not adjusted for multi-day violations, case-specific circumstances or economic benefit.

#### Count II

#### Inadequate Training Records.....\$10,450

Using the penalty assessment matrix, EPA classified Count II, inadequate training records, as presenting a moderate potential for harm and a major deviation from the requirement. The potential for harm was moderate because failure to train significant numbers of workers involved with hazardous wastes may result in improper handling of hazardous wastes. considered the potential for harm as moderate because Respondent's failure to train its workers was evident in generally poor housekeeping of the accumulated hazardous wastes. Finally, EPA considered the potential for harm as moderate because, even if some training did take place, failure to document the training undermines the statutory purposes of RCRA. The extent of deviation from the regulations was major because Respondent failed to train or to document training of most of the employees involved with hazardous waste. The penalty was not adjusted for multi-day violations, case-specific circumstances or economic benefit.

#### Count III

#### Inadequate Aisle Space.....\$330

Using the penalty assessment matrix, EPA classified Count III, inadequate aisle space, as presenting a minor potential for harm and a minor deviation from the requirement. The potential for harm was minor because, although access was impaired to fourteen drums, only one contained RCRA wastes and five contained non-RCRA, California-only hazardous wastes. The extent of deviation from the regulations was minor because this was the only area without adequate aisle space. The penalty was not adjusted for multi-day violations, case-specific circumstances or economic benefit.

#### Count IV

#### Inadequate Contingency Plan.....\$1,100

Using the penalty assessment matrix, EPA classified Count IV, inadequate contingency plan, as presenting a minor potential for harm and a moderate deviation from the requirement. The potential for harm was minor because the critical elements of the contingency plan, including emergency contacts, information requirements, location of fire alarms and hoses, and evacuation plan, were in place. The extent of deviation from the regulations was moderate because the plan failed to reflect systematic attention to the regulatory requirements. The penalty

was not adjusted for multi-day violations, case-specific circumstances or economic benefit.

#### Count V

#### Operating a Storage Facility Without a Permit..\$10,450

Using the penalty assessment matrix, EPA classified Count V, operating a storage facility without a permit, as presenting a moderate potential for harm and a major deviation from the requirement. The potential for harm was moderate because failure to follow required procedures for temporary accumulation of hazardous wastes creates an increased risk of human or environmental exposure. In particular, failure to label hazardous waste properly creates a risk that it will not be recognized and handled as hazardous waste. Failure to observe the required protocol for recording accumulation period start dates increases the likelihood that wastes will accumulate in unsafe quantities and for extended periods. The extent of deviation from the regulations was major because, with respect to at least some containers, Respondent failed to meet almost all of the regulatory conditions for exemption from permit requirements. The penalty was not adjusted for multi-day violations, casespecific circumstances or economic benefit.

TOTAL PENALTY.....\$26,730

#### COMPLIANCE ORDER

#### A. PAYMENT OF CIVIL PENALTY

- 1. It is hereby ordered that Respondent shall submit the sum of TWENTY-SIX THOUSAND SEVEN HUNDRED THIRTY DOLLARS (\$26,730) using the enclosed EPA Form 2570-6, Funds Transfer Deposit. Please take this form to your bank and request that they wire the amount stated on the form through the Federal Reserve Communication System ("FRCS") to the account of the U.S. Treasury at the Federal Reserve Bank of New York. Payment shall be remitted within thirty (30) days of the Effective Date of this Complaint.
- 2. In accordance with the Debt Collection Act of 1982 and U.S. Treasury directive (TFRM 6-8000), payment must be received within thirty (30) days of the Effective Date of this Complaint to avoid additional charges. If payment is not received within thirty (30)

days, interest will accrue from the Effective Date of this Complaint at the current interest rate published by the U.S. Treasury as described at 40 C.F.R. §13.11. A late penalty charge of \$15.00 will be imposed after thirty (30) days with an additional charge of \$15.00 for each subsequent thirty (30) day period. A 6% per annum penalty will further apply on any principal amount not paid within ninety (90) days of the due date.

#### B. COMPLIANCE

3. Respondent is ordered to come into compliance with the requirements of Sections 3002 and 3004 of RCRA, 42 U.S.C. §§ 6922 and 6924, and 22 CCR §§ 66262.34, 66262.11, 66265.173(a), 66265.16, 66265.35, and 66265.52 [40 C.F.R. Sections 262.34, 262.11, 265.173(a), 265.16, 265.35, and 265.52], to undertake the following activities, and to make submittals and certification to Complainant within the times specified below. All days are consecutive calendar days from the Effective Date of this Complaint.

In accordance with the findings presented in this Complaint, Respondent is hereby ordered to take the following actions:

- 4. Within thirty (30) days of the Effective Date, Respondent shall submit a training plan that will result in Respondent meeting the requirements of 22 CCR § 66265.16 [40 C.F.R. § 265.16] within ninety (90) days of the Effective Date. The plan to be submitted within thirty days shall include the preparation of the documentation required by 22 CCR § 66265.16(d) [40 C.F.R. § 265.16(d)]. The plan shall also identify for each employee whose job is related to hazardous waste management any training deficits under the requirements of 22 CCR § 66265.16 [40 C.F.R. § 265.16] as well as a plan to correct those deficits within ninety (90) days of the Effective Date.
- 5. Within ninety (90) days of the Effective Date, Respondent shall submit evidence of compliance with the requirements of 22 CCR § 66265.16 [40 C.F.R. § 265.16] with respect to employee training. The evidence to be submitted within thirty days shall at minimum include all of the documentation required by 22 CCR § 66265.16(d) [40 C.F.R. § 265.16(d)], which documentation shall be updated to reflect training activity undertaken during the ninety day period.
- 6. Within twenty (20) days of the Effective Date, Respondent shall submit evidence of compliance with the requirements of 22 CCR § 66265.52 [40 C.F.R. § 265.52] with respect to the following

amendments to the Respondent's contingency plan: (a) agreed arrangements with the local police department, fire department, hospitals, contractors, and State and local emergency response teams to coordinate emergency services; (b) a designation of the primary emergency coordinator, along with the emergency coordinator's telephone numbers and addresses; and (c) a list of all emergency equipment at the facility, including the location and physical description of each item on the list.

7. Respondent shall provide documentation of compliance with the above Compliance Order with submittals and certification within the time periods specified above to:

Clint Seiter
Hazardous Waste Management Division
U.S. EPA Region IX
75 Hawthorne St.
San Francisco, CA 94105

#### C. FAILURE TO COMPLY

8. In the event Respondent fails to comply with any provision of the Compliance Order, then in accordance with Section 3008(c) of RCRA, 42 U.S.C. §6928(c), Respondent may be liable for an additional civil penalty up to TWENTY-FIVE THOUSAND DOLLARS 27, (\$25,000.00) for each day of continued noncompliance. Such continued non-compliance may also result in the institution of a civil or criminal judicial action.

#### NOTICE OF RIGHT TO REQUEST A HEARING

#### A. PUBLIC HEARING

- 1. In accordance with Section 3008(b) of RCRA, 42 U.S.C. §6928(b), the Compliance Order set forth herein shall become final unless Respondent files an Answer and request for public hearing in writing no later than thirty (30) days after the Effective Date of this Complaint with the Regional Hearing Clerk, United States Environmental Protection Agency, Region IX, 75 Hawthorne St., San Francisco, California 94105. A copy of the Answer and request for hearing and copies of all other documents relating to these proceedings filed with the Regional Hearing Clerk should be sent to Matt Strassberg, Assistant Regional Counsel at the same address.
- 2. The Answer must clearly and directly admit, deny or explain

each of the factual allegations contained in the Complaint with regard to which Respondent has any knowledge. Where the Respondent has no knowledge of a particular factual allegation and so states, the allegation is deemed denied. A failure to admit, deny or explain any material fact or allegation contained in this Complaint will constitute an admission of the allegation. The Answer must also state (1) the circumstances or arguments which are alleged to constitute the grounds of defense (2) the facts which Respondent intends to place at issue (3) the basis for opposing any proposed relief, and (4) whether a hearing is requested.

- 3. If Respondent fails to file a written Answer within thirty (30) days of the Effective Date of this Complaint, Respondent may be found in default. Respondent's default will constitute an admission of all facts alleged in the Complaint and a waiver of Respondent's right to a hearing. A default order may thereafter be issued by the Regional Administrator of EPA and the penalty proposed in the Complaint will become due and payable without further proceedings.
- 4. Respondent may request a hearing on any material fact alleged in the complaint, or on the appropriateness of any proposed penalty, compliance, or corrective action order. If Respondent requests a public hearing, it will be held in a location determined in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation of Suspension of Permits, 40 C.F.R. Part 22, a copy of which accompanies the Complaint. The hearing will be conducted in accordance with the provisions of the Administrative Procedure Act, 5 U.S.C. §552 et seg., and 40 C.F.R. Part 22.
- 5. Pursuant to 40 C.F.R. §22.7(c) where a pleading or document is served by first class mail or commercial delivery service, but not by overnight or same-day service, five (5) days shall be added to the time allowed by these rules for the filing of a responsive pleading or document.

#### B. INFORMAL SETTLEMENT

6. Whether or not Respondent requests a hearing, Respondent may confer informally with EPA to discuss the alleged facts, violations and amount of the penalty. An informal conference does not, however, affect Respondent's obligation to file a written Answer within thirty (30) days of the Effective Date of the Complaint. The informal conference procedure may be pursued simultaneously with the adjudicatory hearing procedure.



- 7. In addition to the compliance schedule set forth in the Order above, any settlement reached as a result of an informal conference will be embodied in a written Consent Agreement and Final Order. The issuance of the Consent Agreement and Final Order will constitute waiver of Respondent's right to a hearing on any matter to which Respondent has stipulated.
- 8. If a settlement cannot be reached through an informal conference, the filing of a written Answer within thirty (30) days of the Effective Date of this Complaint will preserve Respondent's right to a hearing.
- 9. EPA encourages all parties against whom a penalty is proposed to explore the possibility of settlement. To request an informal conference, Respondent should contact Matt Strassberg, Assistant Regional Counsel, Office of Regional Counsel, at the above address, telephone number (415) 744-1370.

#### EFFECTIVE DATE

The "Effective Date" of this Complaint is the date of Service. Service is complete when the return mail receipt is signed by the Respondent or a duly authorized representative of the Respondent, in accordance with the provisions of 40 C.F.R. §§ 22.5(b) and 22.7(c).

Date

Julie Anderson Director Hazardous Waste Management Division

#### CERTIFICATION OF SERVICE

I hereby certify that the original of the foregoing Determination of Violation, Compliance Order, and Notice of Right to Request a Hearing was filed with the Regional Hearing Clerk, Region IX, and that a copy was sent, along with a copy of 40 C.F.R. Part 22 Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation or Suspension of Permits, certified mail, return receipt requested, to:

Terry L. Catlin Senior Manager Research/Technical Services Sunkist Growers, Inc. 760 East Sunkist Street Ontario, CA 91761

Date

Lou Tully
Waste Programs Division
Region IX, United States
Environmental Protection Agency

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### UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION IX

In the matter of		)	
		)	U. S. EPA Docket No.
Sunkist Growers, Inc.	)	·	RCRA 09-99-0006
CAD981412828		)	
		)	ANSWER TO DETERMINATION OF
		)	VIOLATION COMPLIANCE ORDER
Respondent.		)	AND NOTICE OF RIGHT TO REQUEST
•		)	A HEARING

#### A. INTRODUCTION

This shall serve as a formal Answer to the *DETERMINATION OF VIOLATION*, *COMPLIANCE ORDER*, *AND NOTICE OF RIGHT TO REQUEST A HEARING* referenced in the above mentioned citation.

While we recognize the fact that deficiencies were identified by the Agency based upon an inspection of the facility and a review of documents provided to you by facility representatives, we believe that some clarification is required. Therefore, we have elected to submit an Answer.

We intend to show that partial compliance has been in place all along, though perhaps not clearly communicated previously. This clarification is not an attempt to downplay the necessity of improving our hazardous waste management program or the immediate need to correct any remaining deficiencies. We believe that our written submissions to date have demonstrated our commitment to exceed the minimum requirements for compliance.

Our response to the Counts is as follows:

#### B. COUNT I

Count I involves an open container of hazardous waste. Sunkist admits that there was an open container of oil-based paint waste in the Paint Storage Satellite Accumulation Area. Sunkist has, as a result of this violation, developed a new Paint Storage Satellite Accumulation Area. This new Area is larger and provides greater ventilation. While we intend to ensure that all containers are properly sealed in the future, the Area was redesigned to cut down on the possibility of exposure to fumes within the enclosed space.

#### C. COUNT II

Count II addresses deficiencies in personnel training. Due to an inadvertent oversight on our part, the training records of Mr. Herb Hartman were not provided prior to the issuance of the *Determination of Violation*. Mr. Hartman, Sunkist's Process Development and Environmental Specialist, received outside training for the 1998 and 1999 years. This training is a two-day per

year session, which provides an overview of Hazardous Waste Regulations in California. This qualified him to provide Hazardous Waste Management Program oversight and supervision of the Hazardous Waste Technician. (Please refer to correspondence sent to Mr. Clint Seiter, dated October 19, 1999.)

As a side note, confusion appears to exist in the "community" regarding the training requirements needed for compliance with RCRA regulations (Title 22) and OSHA regulations (Title 19). Not only is there overlap, along with distinct differences, between the two sets of regulations, the requirements for a generator facility versus a TSD (transport, storage & disposal) facility are unclear. However, we now believe that we have an understanding of the requirements, and have provided a training plan draft to the Agency (as required by the *Compliance Order*) for the Agency's comment prior to the generation of a final draft (refer to correspondence cited in the previous paragraph).

#### D. COUNT III

Count III refers to the failure to maintain adequate aisle space in the Hazardous Waste Storage Area ("HWSA"). Sunkist admits that on December 4, 1998, a violation of 40 C.F.R. 265.35 existed. This violation was immediately rectified. The situation observed during the inspection was not typical of our HWSA management. Sunkist was in the process of reducing the volume of unnecessary hazardous materials present throughout the facility, and had stored materials in the main containment area to be recycled and/or prepared for storage.

To avoid a similar situation, Sunkist has implemented a more rigorous inspection process using the revised inspection form provided to the EPA in the proposed Employee Training Plan currently under review by the Agency. Additionally, a dedicated Hazardous Waste Technician has been employed since the inspection. This Technician is responsible, under the direction of the Hazardous Waste Management Program Administrator, for ensuring that items like aisle space and proper drum placement are maintained and that audits are performed as required. In the event the Technician is unavailable at any time, Sunkist has two back up employees who have also received the necessary training to handle these responsibilities. This dedicated effort by designated employees allows for greater focus on these tasks and will promote a concentrated effort toward compliance in this area.

#### E. COUNT IV

Count IV addresses the deficiencies in the Contingency Plan. The Contingency Plan is required to demonstrate "agreed arrangements with local police department, fire department, hospitals, contractors and State and local emergency response teams to coordinate emergency services". This element, along with other elements, was addressed in our correspondence to Mr. Clint Seiter, dated October 8, 1999. In this correspondence it was stated that an opinion was provided by a San Bernardino County Fire Department ("SBCFD") representative regarding the means of complying with this requirement. SBCFD is the local CUPA (Certified Unified Program Agency) for the county. They advised that two copies of the Contingency Plan (or Business Plan) were to be submitted to them. One copy is sent by the CUPA to the local Fire Department, who is responsible for responding to company incidents. The CUPA representative informed Sunkist that this submission satisfies the applicable statutory requirements. It was understood by Sunkist that this submission would suffice to establish the arrangements with the various local agencies. In fulfillment of SBCFD's biennial request for updates and re-

certification, a revised Contingency Plan was submitted January 1998, proof of which was supplied in the same correspondence cited in this paragraph. This submission identified the Emergency Coordinator(s).

Since the time that this arrangement with the CUPA was made, the Agency has informed Sunkist that the SBCFD representative's opinion that 40 C.F.R. 265.52 had been fulfilled was incorrect. Based on the Agency's request for additional agreements, we have fulfilled these requirements, hopefully to the complete satisfaction of the EPA.

#### F. COUNT V

Count V charges Sunkist with operating a Hazardous Waste Storage Facility ("HWSF") without a permit. While it is true that 40 C.F.R. 270.1(c) requires each person owning and operating a hazardous waste storage facility to have a permit, 40 C.F.R. 262.34 states that hazardous waste generators may accumulate hazardous waste on-site without a permit for a limited period of time, as long as certain requirements are met. Therefore, it was not Sunkist's operation of the HWSF without a permit that was a violation, but rather, the failure to meet certain requirements while engaging in short-term waste storage.

Count V then lists the requirements that Sunkist violated. These include: failure to label containers as "Hazardous Waste", failure to mark containers clearly with accumulation period start dates and quantity limitation dates, failure to properly close a container, failure to provide adequate training, failure to maintain adequate aisle space and inadequate contingency planning. The majority of these violations have been dealt with under the previous four Counts, and penalty amounts have been assessed therefor. While Sunkist did fail to meet a number of the regulatory conditions for short term waste storage, Sunkist does have a permit in place as a generator facility, thereby allowing the short term storage of hazardous waste as it is accumulated for disposal.

#### G. ADDITIONAL COMPLIANCE MEASURES

As indicated in the information submitted to the Agency thus far, our Hazardous Waste Management Program has been strengthened by taking actions including: identifying specific individuals who have responsibility or some role in hazardous waste management, filling a HW Technician position in the Spring of 1999 and the recent addition of the Environmental Compliance Specialist position which is currently undergoing recruitment.

#### H. RELIEF REQUESTED

We respectfully request that consideration be given to the information supplied in this Answer and to the Agency through previous correspondence as cited. We propose a monetary reduction to the penalty computation based upon the partial compliance discussed in this correspondence and the good faith effort made toward compliance since the time of the inspection and our awareness of the Agency's concerns. This reduction could be used to strengthen the existing training program at Sunkist.

Another recommendation is that a reduced penalty amount be put to use to benefit the local community, whether it be to a single organization or a combination of organizations such as the Hazardous Material Unit of the Ontario Fire Department, the Hazardous Materials Division of the San Bernardino County Fire Department, or the City of Ontario for improvements.

The relief herein requested in no way lessens the importance of the intent of the regulations or of the Agency's concerns in our minds. We regret that deficiencies and/or concerns were even identified. We are proud of our corporate name and the respect the public associates with it. It is our intent to express this same pride in the fulfillment of our regulatory duty to protect the environment, in general, and the welfare of our employees and the surrounding community, specifically.

Sunkist does not request a hearing regarding the information stated in this Answer - we are submitting this Answer solely for review by the Agency. However, we do hope to have the opportunity to discuss a possible settlement of this matter, and would welcome the consideration of Sunkist's proposed alternatives set forth above.

Magne Musy

Date: 17,1779

#### CERTIFICATE OF SERVICE

I hereby certify that an original of the foregoing ANSWER TO
DETERMINATION OF VIOLATION COMPLIANCE ORDER AND NOTICE OF RIGHT
TO REQUEST A HEARING, in the matter of Sunkist Growers, Inc.,
RCRA 09-99-0006, signed by Robert W. Eldridge, Director of Plant
Operations, was served on each of the parties at the address
given below by mailing as here indicated.
Steven W. Anderson, Esq. Overnight Mail Regional Judicial Officer U. S. EPA, Region IX 75 Hawthorne street, ORC-3 San Francisco, California 94105
Matthew Strassberg, Esq. Overnight Mail Assistant Regional Counsel U. S. EPA, Region IX 75 Hawthorne Street, ORC-3 San Francisco, California 94105
Mr. Clint Seiter Overnight Mail Hazardous Waste Management Division U. S. EPA, Region IX 75 Hawthorne Street San Francisco, California 94105
Dated at Ontario, California, this day of November, 1999.
Bond J. Engle

Bonita J. Engle Sunkist Growers, Inc.

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November 5, 1999

Clint Seiter
Hazardous Waste Management Division
U. S. EPA Region IX
75 Hawthorne Street
San Francisco, CA 94105

\*\*\* Overnight Delivery \*\*\*

Sunkist Growers Processed Products P.O. Box 3720 Ontario, CA 91761-0993 Tel: (909) 983-9811

Subject: WST-3-1 Sunkist Growers, Inc. CAD981412828

Dear Mr. Seiter,

This letter shall serve as a progress report regarding your request for additional information for fulfillment of the *Compliance Order*. After the initial "20 day" submission, you requested, (via telephone) that we take the following action:

- 1. Pursue additional arrangements with local authorities to coordinate an emergency response;
- 2. Add additional information describing the purpose of the listed emergency equipment in the Contingency Plan; and
- 3. After the "30-day" submission, you requested that a training check list and more precise descriptive information be added to the Employee Training Plan.

In response to the first request, letters have been and are currently being sent to local authorities to coordinate activities in the event of an emergency. The Contingency Plan is undergoing revision to incorporate the requested information. We hope to have this request completed as soon as possible. The exact date for completion will depend upon the receipt of correspondence from the local authorities in response to Sunkist's requests. (Please see attached correspondence requesting coordination with various agencies.)

In response to the second request, staff is preparing a more comprehensive physical description of emergency equipment and a brief outline of its capabilities. Additionally, we will verify that the emergency equipment list is correct reflecting the number and composition with current location maps.

In response to the third request, please find attached another draft of the Employee Training Plan, which has been modified to address your concerns. This Training Plan is being circulated internally for additional comment and review with the anticipation that a final draft will be completed soon after receiving any further comments from the Agency.

### EPA Correspondence to Clint Seiter, dated November 5, 1999 WST-3-1 Sunkist Growers, Inc. CAD981412828

Please feel free to call me at (909)933-2393 or Terry Catlin at (909)933-2264 for clarification and/or further information and to provide any comments.

Sincerely,

Robert Eldridge

Director of Operations

attachments

- Revised HWMP Employee Training Plan Draft, dated 11/3/99
- Letter to Ontario Police Dept. dated 11/2/99
- Letter to San Antonio Hospital dated 11/2/99

cc: (). Belletto, T. Catlin, K. Moyer, T. Moore, W. Wells

(epaws13c.doc)



Sunkist Growers Processed Products Group Post Office Box 3720 Ontario, CA 91761-0993 Tel: 1909/983-9811

November 02, 1999

CITY OF ONTARIO POLICE DEPARTMENT 200 N Cherry Ave.
Ordario, CA 91761

Re: Emergency Response Procedures for Hazardous Waste Contingency Planning

To Whom It May Concern:

We hereby inform you of our generation and storage of hazardous waste at our Ontario facility and pursuant to 22 CCR - 66265.37 wish to facilitate coordination in the event your assistance is necessary in case of an emergency involving hazardous waste at our facility. The wastes we currently have on site sincludes but is not limited to the following:

AMMONIA (NH3)
POTASSIUM HYDROXIDE (KOH)
SODIUM HYDROXIDE (NaOH)

Pursuant to 22 CCR – 66265.52, we have developed an Emergency (Contingency) Plan to minimize hazards to human health or the environment from unplanned or sudden releases of hazardous waste, or from fires or explosions. As part of this program we have established emergency procedures and trained our personnel to immediately handle such unplanned or sudden occurrences. I have attached a copy of our Emergency Plan for your files.

Please inform us of your acknowledgement of this request to coordinate emergency response assistance. If you would like to visit our facility or have our personnel involved in any planning exercise, please advise the undersigned. If your assistance is required in the event of an emergency, it will be most appreciated.

Sir.cerely

Director of Operations

Attachment: Copy of Hazardous Waste Emergency (Contingency) Plan



## EMERGENCY RESPONSE PLAN Ontario Facility

# SUKNIST GROWERS Emergency Response Plan

Ontario Facility

October 10, 1999

	Operations /	Markering   /	Technical	Safety
Approvals:	1 Million	1/1/1	levisores	Mental
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Sunkist Growers
Processed Products Group
Post Office Box 3720
Ontario, CA 91761-0993
Tel: (909) 983-9811

November 02, 1999

SAN ANTONIO COMMUNITY HOSPITAL 999 San Bernardino Road Upland, CA 91786

Re: Emergency Response Procedures for Hazardous Waste Contingency Planning

To Whom It May Concern:

We hereby inform you of our generation and storage of hazardous waste at our Ontario facility and pursuant to 22 CCR + 66265.37 wish to facilitate coordination in the event your assistance is necessary in case of an emergency involving hazardous waste at our facility. The wastes we currently have on site includes but is not limited to the following:

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Sincerely

Director of Operations

Attachment: Copy of Hazardous Waste Emergency (Contingency) Plan



## EMERGENCY RESPONSE PLAN Ontario Facility

# SUKNIST GROWERS Emergency Response Plan

Ontario Facility

October 10, 1999

	Operations /	Markening /	Technical	Safety
Approvals:	/ Walley	1/1/1	levisies	1 colones
	11/8/11	1 6.0/5/6.1	10/8/1999	10/01/11



### EMPLOYEE TRAINING

Hazardous Waste Management Program

Ontario Facility

PPD	Operations	Applied Sciences	EC Specialist
Approvals:			

RTSD	Technical Services	Manufacturing
Approvals:		



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#### INTRODUCTION

This training program satisfies 22 CCR 66265.16 *Personnel Training* (see Appendix A). This training is in conjunction with training required for Contingency Plan implementation in accordance to the above mentioned regulation and that of 29 CFR 1910.120(q) (see Appendix B). Contingency Plan training will be conducted by a designated representative from the Safety Office in coordination with the Environmental Compliance Specialist or qualified designate who will cover hazardous waste issues.

New employees are provided this training during their orientation prior to a job assignment or within six months of employment while the employees are working under qualified supervision if evidence of training is lacking at the time of hiring, depending upon the job responsibility. Employees are to be retrained annually consistent with their responsibilities. All training is documented. Training certificates will be maintained in the employee's personnel file and it is the responsibility of the individual employee to supply this information to the Personnel Office and to the EC Specialist or designate. Copies of these certificates will also be maintained in the Hazardous Waste Management Program files. Training records on current personnel shall be kept until closure of the facility. Training records on former employees shall be kept for at least three years from the date the employee last worked at the facility. Personnel training records may accompany personnel transferred within the same company.

All employees are trained consistent with their specific responsibility for hazardous waste handling and emergency response. Requisite training for qualified job performance will be identified in the specific job descriptions.

While all employees will receive Contingency Plan training, depending on their involvement in the implementation of the Contingency Plan in the event of an emergency, only those employees who "handle" hazardous waste in some way require additional specialized training to comply with the hazardous waste regulations, addressing hazardous waste management and Contingency Plan implementation issues.

The SAA Personnel listing and the Employee Training List (Appendix A) will be reviewed on an annual basis. Each employee identification and assignment will be verified for annual training compliance. The Employee Training List will be reflect current training as certificates are received and filed. Copies of the certificates will be placed in the employee's personnel files and Appendix B of this training manual.



#### TYPES OF EMPLOYEES

The Company has the following levels (or examples) of employee responsibility:

- Office/Administrative Employees
  - -- Training is limited to understanding role in emergency response procedures and evacuation.
- Employees who are not exposed to hazardous materials/waste
  - -- Training is limited to understanding role in emergency response procedures and evacuation.
- Employees who are incidentally exposed to hazardous materials/waste
  - These employees may simply dispense hazardous waste into Satellite Accumulation Area containers.
  - -- Training is limited to understanding Hazard Communication with Recognition and their role in emergency response.
- Employees who are exposed by handling hazardous materials/waste as a Hazardous Waste Technician or equivalent
  - These employees are responsible for tasks defined by the duties of a Hazardous Waste Technician or equivalent.
  - Training is limited to Hazard Communication with Recognition, Hazardous Waste Technician or equivalent, and their role in emergency response.
- HWMP Employees who are incidentally exposed to hazardous materials/waste
  - These employees provide hazardous waste management program administration but do not necessarily handle hazardous waste.
  - -- Training is limited to Hazardous Waste Management instruction or equivalent and their role in emergency response, depending on their responsibilities.
- Employees who are exposed by handling hazardous materials/waste as Emergency Coordinators or Emergency Responders, Level III or equivalent
  - These employees are responsible for tasks defined by the duties of an Emergency Coordinator or Emergency Responder, Level III or equivalent.
  - Training is limited to Emergency Responder, Level III or equivalent and their role in emergency response, incident command and/or first responder.



#### **ELEMENTS OF TRAINING PROGRAM**

Essentially, four types of training will be employed as follows:

#### Hazard Communication (30-60 minutes minimum)

This training is provided to those employees who may use or encounter chemicals in the performance of their job. Training is provided by supervisor or qualified designate.

- Company's role in Employee Right-to-Know;
- Chemical labels & MSDSs;
- Identification of chemical hazards in the work area;
- Methods or observations for detecting the presence of chemicals;
- Proper use of personal protection equipment.

#### Recognition Training (30-60 minutes minimum)

This training is provided to those employees who "handle" hazardous waste. This "handling" may simply be the dispensing of hazardous waste into a satellite accumulation area (SAA) container or simply moving a filled container from the SAA to the main containment area where hazardous waste is placed in preparation for removal and disposal. Training is provided by supervisor or qualified designate. For individuals in this category, the Recognition Training will then become an added component to Hazard Communication Training.

- Hazardous substances and associated risks;
- Potential outcomes associated with an emergency when hazardous substances are present;
- Recognize the presence of hazardous substances;
- Identification of hazardous substances, if possible;
- Recognize the need for additional resources;
- Role in initiating an emergency response notification;
- Hazardous material release notification requirements;
- Hazard Communication Training elements.

#### Hazardous Waste Technician Training (8 hours minimum)

This training is provided to those individuals who have more involvement in the day-to-day handling of hazardous waste compared to those who require only the Recognition Training. Training is provided by qualified on-the-job and/or outside course instruction. This training is for those who are responsible for performing weekly inspections for compliance, label applications, Containment Area maintenance, HW



#### **ELEMENTS OF TRAINING PROGRAM, Continued**

packaging, recordkeeping and container management. Hazardous Waste Management Program supervision is provided by the EC Specialist or qualified designate.

- Hazardous waste accumulation and storage requirements;
- Container management;
- Hazardous waste labels and required information;
- Workplace accumulation container labels and required information;
- Hazardous waste profiles;
- Conducting periodic inspections;
- Proper use of safety equipment and HW management supplies;
- Recognition Training elements.

#### Hazardous Waste Management Training (1-2 days minimum)

For those individuals responsible for hazardous waste management program oversight, this training requires the individual to become knowledgeable in the laws, regulations, and principles of hazardous waste management practices and familiarity with emergency response procedures. Training is provided by outside course instruction, qualifying the individual to supervise HW management activities and those performed by the HW Technician.

- Federal & State HW regulations;
- HW training instruction;
- Role in contingency plan implementation;
- Hazardous Waste Technician elements.

#### Contingency Plan Training (30-60 minutes minimum)

This training is provided to all employees. This instruction provides the employees with information necessary for the implementation of emergency response procedures, including evacuation. Each of the individual's role in the Contingency Plan implementation will vary from simply notifying the nearest supervisor to serving as an Emergency Coordinator or First Responder, Level III, depending upon the responsibility of the individual. A representative from the Safety Office or designate will provide basic training containing the following elements.

- Role in Contingency Plan implementation;
- Role of emergency coordinators and emergency responders;
- Emergency response notification responsibility;
- Communication capabilities;
- Evacuation routes in the event of an emergency.



#### **ELEMENTS OF TRAINING PROGRAM, Continued**

Emergency Coordinators or Emergency Responders (3 days minimum)

For those individuals given the responsibility to serve as emergency coordinators or emergency responders, this training requires the individual to obtain supplemental outside course instruction qualifying them for this critical role in an emergency response event.

- Equipment operations;
- Emergency Response procedures;
- Emergency/monitoring equipment use, inspection, and repair;
- Shut-off and containment procedures;
- Communications and alarms;
- Fire and explosion response procedures;
- Hazardous material release procedures & responsibility;
- Groundwater contamination incident procedures;
- Notification procedures to local authorities and governmental agencies;
- Contingency Plan Training elements.

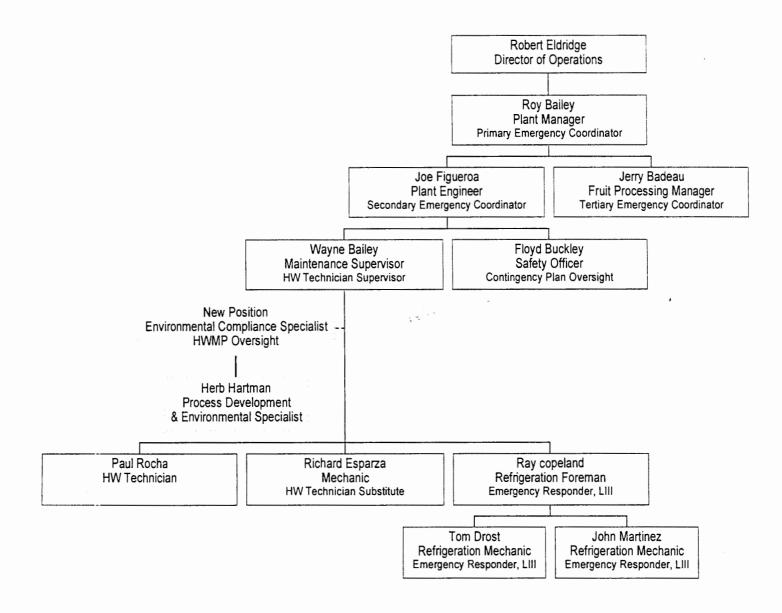


### EMPLOYEE TRAINING DOCUMENTATION INDIVIDUAL TRAINING CERTIFICATE

		(Print:	Name of	Employee)					
Haza	rdous V	completion of the followin Vaste Regulations of the Sta Lafety Regulations.	•	-					
		INITIAL		ANNUAL REFRE	ESHER				
		Hazard Communication	+ Recognit	tion					
	Contingency Plan Implementation (Emergency Response)								
		HW Technician or HW	Handling o	r equivalent					
		Emergency Coordinator, Emergency Responder, Level III or equivalent							
		Hazardous Waste Management or equivalent							
	nce								
perfo Prog	rmed ir ram.	um and other information r	•	•					
The t	training	was received on:		(Date)					
Ву: _		(Print: Trainer)	By:	(Print: En	nployee's Supervisor)				



#### SELECTED ORGANIZATION CHART





#### MAIN CONTAINMENT AREA (MCA)

The Main Containment Area (MCA) is a designated area where hazardous waste is staged for repackaging (if necessary) and disposal, where used petroleum oil is consolidated and prepared for recycling, and where certain cleaning chemicals are stored. Designated areas have been demarcated and clearly marked to indicate where the different materials are to be placed in an orderly fashion with adequate aisle space providing for inspection and emergency response consideration. This area is physically bermed for secondary containment and secured by a locked chain-linked fence, with limited access made only by one of the following individuals: EC Specialist and/or qualified designate, HW Technicians, Plant Manager and Security Office representatives.

As hazardous waste is placed into the MCA, the package is inspected for proper labeling, package integrity, closure and an entry is made in the log to indicate the time of the placement. The hazardous is properly profiled and disposed by an contracted hazardous waste disposal company.



#### SATELLITE ACCUMULATION AREA (SAA)

The satellite accumulation areas (SAAs) are sites throughout the facility where containers are conveniently placed to allow for the collection of hazardous waste as it is generated as a result of normal operational activities. These sites are located in the plot map on page 9 and have been identified on page 10 along with the identifying SAA number, description name and type of hazardous waste being collected. On page 11, personnel dispensing hazardous waste into the different SAA sites have been identified. Additionally, the individual(s) responsible for ensuring label and container compliance in their respective sites have also been identified. These latter individuals are responsible for the proper maintenance of the SAA sites and weekly inspections as well.

Movement of the filled containers is limited to the Hazardous Waste (HW) Technician and his/her qualified substitute. The HW Technician is responsible for non-routine inspections of the SAA sites and the main containment area where the hazardous waste is placed in preparation for removal and disposal, under the direction of the Environmental Compliance Specialist or qualified designate.

#### HAZARDOUS WASTE STORAGE AREA INSPECTION LOG

(Inspections Conducted On A Weekly Basis)

nspector's Name/Title	Date of Inspection  Time of Inspection

	the state of the s	Sta	tus			
Item	Specifics	Acceptable	Not Acceptable	Recommended Corrective Action	Date Corrective Action Completed	
Labeling Storage Areas	Hazardous Waste signs posted; No smoking signs					
Security	Area secured from unauthorized entry					
Housekeeping	Areas free of spills and leaks and debris					
Containment	Containers are within secondary containment Berms / dikes are free of cracks and deterioriation	A				
Container Storage Time	Containers in Satellite Accumulation areas not stored longer that one year or 55-gallons Containers in main storage area not stored longer than 90 days					
Labeling of Containers	Name, address, contents, hazardous properties, accumulation start date and EPA identification number					
Container Condition	Sealed bungs and lids; No liquid / residue on containers					
Pallets	Not damaged (e.g., broken wood, warping, nails missing)					
Grounding Straps	Flammable liquids and metal dispensing containers connected to ground; No plastic funnels or pumps					
Container Placement	Sufficient aisle space; limit of 2 per stack, Neat and oderly; Ignitable waste stored 50 feet from property line					
Segregation of Incompatible Wastes	Acids away from alkalines; flammable / combustibles together; oxidizers away from flammables					
Fire Extinguisher	Unobstructed access; charged; signs indicating location					
Spill Control Equipment	Absorbent, shovel, drain blocks available					
Contingency Plan	Current and available			453494		
Communication Device	Telephones, hand-held radios, or PA system / alarm system in working order					
Shower / Eye Wash	Functioning properly; unobstructed access					
Personal Protective Equipment	Gloves, goggles, apron available					



Plot Map of SAAs Under Construction



#### **SAA IDENTIFICATION**

SAA No.	Description	Type of Waste
1	Manufacturing A	Paint Waste, Spent Aerosol Cans, Adsorbents
	(Primary RTS Mfg. Site)	
2	Manufacturing B	Waste Petroleum Oil & Spent Adsorbent
•	(Satellite RTS Mfg. Site)	
3	Freezer 20-30	Waste Petroleum Oil & Spent Adsorbent
4	Fleet Service	Waste Petroleum Oil, Spent Adsorbent, Used
		Batteries, Used Oil Filters, Spent Aerosol Cans
5	Oil Basement	Waste Citrus Oil & Sediment, Spent Filter
		Pads, Media & Cartridges, Spent Adsorbent
6	Basement 31	Petroleum Oil Waste
Ü	Dasement 51	Totaloum on Waste
7	SK/Brown/FMC	Waste Petroleum Oil & Spent Adsorbent
8	Oil Communication Process	Wests Datroloum Oil & Sport Adambant
٥	Oil Compressor Room	Waste Petroleum Oil & Spent Adsorbent
9	Machine Shop	Waste Petroleum Oil, Spent Adsorbent, Spent
	1	Aerosol Cans
10	Paint Shop	Waste Paint Solvents, Waste Paint Materials,
	2 <b>r</b>	Spent Aerosol Cans.
11	Tank Farm	Waste Petroleum Oil & Spent Adsorbent
	Turk Turk	waste I etteredin on a spent Haserbent
12	Main QC Lab	Diacetyl Waste, Lab Acid Waste, HPLC Waste
	•	
13	RC Products Lab	Lab Waste, HPLC Waste, Lab Acid Waste
1.4	F	C'. T. W G
14	Essence Recovery	Citrus Essence Waste, Spent Oil Cartridges



# APPENDIX A 1999 SAA PERSONNEL LIST 1999 EMPLOYEE TRAINING LIST



#### 1999 SAA PERSONNEL LIST

SAA No.	SAA Responsibility	"Dispensers"
1	Adrian Bahena	Cesar Medrano
2	Joel Hoffman	Jose Grano, Les Poppa
3	Ray Copeland, Wayne Bailey	Tom Drost, John Martinez
4	Ron Alexander	Al Jenkins, Rafael Reyes
5	Jack Jones	Ray Ballester, Norm Husten, Larry Anaya, Dora Juziano
6	Ray Copeland, Wayne Bailey	Tom Drost, John Martinez
7	Dave Dominguez, Wayne Bailey	Dave Garcia, Andy Delatorre
8	Ray Copeland, Wayne Bailey	Tom Drost, John Martinez
9	Dave Dominguez, Wayne Bailey	Dave Garcia, Andy Delatorre, Doug Temple
10	Dave Dominguez, Wayne Bailey	Ken Hammock, Mike Runyan, John Reynolds
11	Dave Dominguez, Wayne Bailey	Dave Garcia, Andy Delatorre, Johnnie Davis
12	Sidney Lopez	Rowena Barcimo, Toni Corona, Pilar Tanio, Maria Dimagmaliw, David Goforth, Kathie Blyskal
13	Valerie Barrett, Dennis Manley, Vernita Marlin	Bill Cheeks, Debbie Lim, Herb Hartman, David Cooper, Lex Kongmebhol, Pearl Kongmebhol
14		Kongmeonor

Dispensers are individuals who in the performance of their routine job duties may dispense hazardous waste into an SAA container. These include those individuals listed in the SAA Responsibility category as well. The SAA responsible individual is required to perform weekly inspections of their respective SAA primarily for container and label compliance. A copy of the inspection report is to be distributed to the Environmental Compliance Specialist for review and filing.



#### **EMPLOYEE TRAINING LIST**

area (Euro	Invasilation and the same		1999 1
Last Name	First Name	Responsibility	Completion (X)
Tractable Name	A SUSCIALIFE	Vesholisionit	COMPLETE
Alexander	Ron	SAA 4	
Anaya	Larry	SAA 5	
Badeau	Jerry	EC	
Bahena	Adrian	SAA 1	H = H
Bailey	Wayne	SAA 3, 7, 9, 10, 11, HWT	
Bailey	Roy	EC	H
Ballester	Ray	SAA 5	<del> </del>
Barcimo	Rowena	SAA 12	<u>-</u>
Barrett	Valerie	SAA 13	
Blyskal	Kathie	SAA 12	
Cheeks	Bill	SAA 13	<u> </u>
Cooper	David	SAA 13	$H \mid$
Copeland	Ray	SAA 3, 6, 8, ERIII	H
Corona	Toni	SAA 12	$\vdash$
Davis	Johnnie	SAA 11	$\vdash$
Delatorre	Andy	SAA 7, 9, 11	<u> </u>
Dimagmaliw	Maria	SAA 12	-
Dominguez	Dave	SAA 7, 9, 10, 11	<del>   </del>
Drost	Tom	SAA 3, 6, 8, ERIII	
Esparza	Richard	HWT	
Figueroa	Joe	EC	
Garcia	Dave	SAA 7, 9, 11	H
Goforth	David	SAA 12	H
Grano	Jose	SAA 2	$\vdash$
Hammock	Ken	SAA 10	
Hartman	Herb	HWMP	
Hoffman	Joel	SAA 2	
Husten	Norm	SAA 5	-
Jenkins	Al	SAA 4	H
Jones	Jack	SAA 5	
Juziano	Dora	SAA 5	$\vdash$
Kongmebhol	Lex	SAA 13	<u> </u>
Kongmebhol	Pearl	SAA 13	
Lim	Debbie	SAA 13	H
Lopez	Sydney	SAA 12	H
Manley	Dennis	SAA 13	
Marlin	Vernita	SAA 13	
Martinez	John	SAA 3, 6, 8, ERIII	
Medrano	Cesar	SAA 1	
Poppa	Les	SAA 2	
Reyes	Rafael	SAA 4	
Reynolds	John	SAA 10	
Rocha	Paul	HWT	
Runyan	Mike	SAA 10	
Tanio	Pilar	SAA 12	
Temple	Doug	SAA 9	
			<u></u>

SAA = Satellite Accumulation Area; ERIII = Emergency Responder, Level III; HWT = Hazardous Waste Technician; EC= Emergency Coordinator; HWMP = Hazardous Waste Management Program



## APPENDIX B 1999 COMPLETED TRAINING CERTIFICATES



## APPENDIX C RCRA REGULATIONS



## APPENDIX D OSHA REGULATIONS



## APPENDIX E JOB DESCRIPTIONS

## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Criminal Investigation Division Los Angeles Area Office

#### Facsimile Transmission Cover Sheet



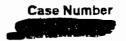
#### WARNING

This document is the confidential and exclusive use of law enforcement agencies. It is loaned to you by and remains the property of the U. S. Environmental Protection Agency, Criminal Investigation Division (USEPA-CID). It contains neither the recommendations nor conclusions of the USEPA-CID. Neither it nor its contents are to be distributed outside of the agency to which it is loaned. If you are not authorized to possess this document, it and any copies must be returned to USEPA-CID immediately.

Date:	10/5, 1999	
To:	Clint Seiter	
Office No.:	(415)744-2141	
gaz No.:	145) 744 - 1044	
Gram:	Fernifer Youngking	
Pages:	(Z)+Cover Page	
Re:	Meno of phone call received.	

600 South Lake Avenue, Suite 502 ♦ Pasadena, California ♦ 91106-3955 Telephone: (626) 583-7528 ♦ Facsimile: (626) 583-7533

## United States Environmental Protection Agency Criminal Investigation Division Investigative Activity Report



Case Title:

Reporting Office:

Sunkist Growers

Los Angeles, CA

Subject of Report:

Anonymous phone calls from Sunkist

Copies to:

Related Files:

Reporting Official and Date:

Jennifer Youngberg, SA

Approving Official and Date:

Jorge Urquijo, SAC

<u>Details</u>

On October 1, 1999, EPA-CID SA Youngberg received two voice mail messages from an anonymous caller at Sunkist. The caller stated essentially the following:

In the first message at 1:51pm, the caller stated that he knew SA Youngberg was investigating Sunkist for discrepancies in reporting ammonia releases. The caller continued that SA Youngberg should also look at hazardous waste drums in the lemon oil processing area. Jerry Badeau, the plant superintendent, had ordered the waste labels be removed from the drums. The caller did not remove the labels but someone at the plant took them off. The caller knows the material is a waste because it goes on the floor and into a sump. There is a number of these drums along the east wall. The caller asked if SA Youngberg could get Sunkist to write the correct labels on those drums.

At the farm area, where Sunkist drains their wastewater, the caller stated there are piles of batteries, used oil spilled on the ground, and some leaking diesel fuel. The caller described the holding pond at the farm as awful, stinky, and pulpy. The caller stated that hazardous waste is also discharged to the pond on occasion. The caller believes that Sunkist is using the farm as a landfill, with leaves and trash heaped all over the place. The caller warned the agent that there are bee boxes down at the farm.







December 20, 1999

Clin: Seiter
Hazardous Waste Management Division
U. S. EPA Region IX
75 Hawthorne Street
San Francisco, CA 94105

\*\*\* Overnight Delivery \*\*\*

Sunkist Growers
John V. Newman Research Center
760 E. Sunkist Street
P.O. Box 3720
Ontario, CA 91761-1862
Tel: (909) 983-9811

Subject: WST-3-1 Sunkist Growers, Inc. CAD981412828

Dear Mr. Seiter,

Per your request, this letter serves as a report that additional arrangements with local authorities to coordinate activities in the event of an emergency were solicited without receipt of any reply to date. Certified Return Mail Receipts were received indicating delivery of the letter and a copy of the Contingency Plan. Copies of the return receipts are attached for your review.

Please feel free to call me at (909)933-2393 or Terry Catlin at (909)933-2264 for clarification and/or further information and to provide any comments.

Sincerely

Director of Operations

attachments - Copies of Certified Return Mail Receipts

cc: O. Belletto, T. Catlin, K. Moyer, T. Moore, R. Peterson, W. Wells (epaws13g.doc)

	Thank you for using Return Receipt Service.										
Sunki  November 18, 1999	88	I also wish to receive the following services (for an extra fee):	1. Addressee's Address 2. Hestricted Delivery	Consult postmaster for fee.	Jamber 358 357 018	be	Mail Carified	-Merchandise	//- /2 - 99 e's Address (Only if requested	J)	Domestic Return Receipt
Ontario Fire Department *** Certif		rices. of this form so that we can return this	n the back if space does not ce below the article number.	d the date	4a. Article Number	4b. Service	☐ Kegistered	7. Date of Delivery	8. Addressee's A	and fee is	102595-98-B-0229
425 East B Street Z 338		t we	pace	auc							102
Ontario, CA 91761		so tha	back if s	slivered	١						
Re: Emergency Response Procedures for Hazardou		s. nis form	on the ba	was de	12	2	19				
To whom it may concern:		al services verse of th	piece, or o he mailpie	the article	7 33	<b>∞</b>	9			tt)	
We hereby inform you of our generation and storage of hazardo pursuant to 22 CCR - 66265.37 wish to facilitate coordination is emergency involving hazardous material/waste at our facility. I site includes but is not limited to the following:	12.00C	and/or 2 for additional serv , 4a, and 4b. Ind address on the reverse	ttach this form to the front of the mailpiece, or on thermit.  Into "Return Receipt Requested" on the mailpiece.	pt will show to whom	ssed to:	25 GAST	mms, CA	•	(Print Name)	(Addressee or Agent)	PS Form <b>3811</b> , December 1994
Anhydrous Ammonia (NH <sub>3</sub> ) Labo Potassium Hydroxide (KOH) Citru Sodium Hydroxide (NaOH) Wast Waste Petroleum Oil	ABRACY	SENDER:  Complete items 1  Complete items 3  Print your name a card to you.	■ Attach this form to permit. ■ Write "Return Rec		3. Article Addressed to:	7	ON		5. Received By: (Print Name)	6. Signature: (Ac	PS Form <b>3811</b> ,

Pursuant to 22 CCR - 66265.52, we have developed an Emerge..., Lapis assignable at uno pasaiduous SSAUGY NULLEU inox si haz ards to human health or the environment from unplanned or sudden releases of hazardous material/waste, or from fires or explosions. As part of this program we have established emergency procedures and trained our personnel to immediately handle such unplanned or sudden occurrences. I have attached a copy of our Emergency Response (Contingency) Plan for your files.

Please inform us of your acknowledgment of this request to coordinate emergency response assistance. If you would like to visit our facility or have our personnel involved in any planning exercise, please advise the undersigned. If your assistance is required in the event of an emergency, it will be most appreciated.

Sincerely

Robert Eldridge

Director of Operations

/tc

Attachment: Copy of Emergency Response (Contingency) Plan

cc: O. Belletto, T. Catlin, J. Figueroa, T. Moore, K. Moyer, W. Wells (agency2.doc)

XC'. P. PETERSON

Thank you for using Return Receipt Service. 102595-98-B-0229 Domestic Return Receipt Addressee's Address Restricted Delivery following services (for an Consult postmaster for i extra fee) \_ fee is paid, Express Mail Service Type Return Receipt Registered November 18, 1999 address on the reverse of this form so that we can return this Article orm to the front of the mailpiece, or on the back if space does not number. the date Office of Emergency Services \*\*\* Certified Reco Hazardous Materials Unit the article r P.C). Box 419047 Z 338-357-02 Rancho Cordova, CA 95741-9047 Re: Emergency Response Procedures for Hazardot for additional services. To whom it may concern: o We hereby inform you of our generation and storage of hazardor pursuant to 22 CCR - 66265.37 wish to facilitate coordination ir emergency involving hazardous material/waste at our facility. T site includes but is not limited to the following: 381 Anhydrous Ammonia Labor  $(NH_3)$ Potassium Hydroxide (KOH) Citrus Form Sodium Hydroxide (NaOH) Waste Waste Petroleum Oil Is your RETURN ADDRESS completed on the reverse side?

Pursuant to 22 CCR - 66265.52, we have developed an Emergen

hazards to human health or the environment from unplanned or sudden releases of hazardous material/waste, or from fires or explosions. As part of this program we have established emergency procedures and trained our personnel to immediately handle such unplanned or sudden occurrences. I have attached a copy of our Emergency Response (Contingency) Plan for your files.

Please inform us of your acknowledgment of this request to coordinate emergency response assistance. If you would like to visit our facility or have our personnel involved in any planning exercise, please advise the undersigned. If your assistance is required in the event of an emergency, it will be most appreciated.

Sincerely

Robert Eldridge

Director of Operations

/tc

Attachment: Copy of Emergency Response (Contingency) Plan

cc: O. Belletto, T. Catlin, J. Figueroa, T. Moore, K. Moyer, W. Wells (agency4.doc)



November 18, 1999

Office of Emergency Services 1743 Miro Way Rialto, CA 92376

\* Cer Z

Re: Emergency Response Procedures for Hazard

To whom it may concern:

We hereby inform you of our generation and storage of hazard pursuant to 22 CCR – 66265.37 wish to facilitate coordination emergency involving hazardous material/waste at our facility. site includes but is not limited to the following:

> Anhydrous Ammonia  $(NH_3)$ Lab Potassium Hydroxide (KOH) Citn Sodium Hydroxide (NaOH) Was Waste Petroleum Oil

Pursuant to 22 CCR - 66265.52, we have developed an Emerge hazards to human health or the environment from unplanned or

your name and address on the reverse of this form so that we can return this sard to you. Attach this form to the front of the mailpiece, or on the back if space does not e "Heturn Receipt Requested" on the mailpiece below the article number Return Receipt will show to whom the article was delivered and the date Article Addressed to Received By: ls your RETURN ADDRESS completed on the reverse side?

Thank you for using Return Receipt Service.

Q

Return Receipt for Date of Delivery

Express Mail Registered

Addressee's Address

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Vor 2 for additional services. and 4b.

extra fee)

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Restricted Delivery Consult postmaster for fee.

4a. Article Number

Service Type

from fires or explosions. As part of this program we have established emergency procedures and trained our personnel to immediately handle such unplanned or sudden occurrences. I have attached a copy of our Emergency Response (Contingency) Plan for your files.

Please inform us of your acknowledgment of this request to coordinate emergency response assistance. If you would like to visit our facility or have our personnel involved in any planning exercise, please advise the undersigned. If your assistance is required in the event of an emergency, it will be most appreciated.

Sincerely

Robert Eldridge Director of Operations

Attachment: Copy of Emergency Response (Contingency) Plan

cc: O. Belletto, T. Catlin, J. Figueroa, T. Moore, K. Moyer, W. Wells (agency3.doc)

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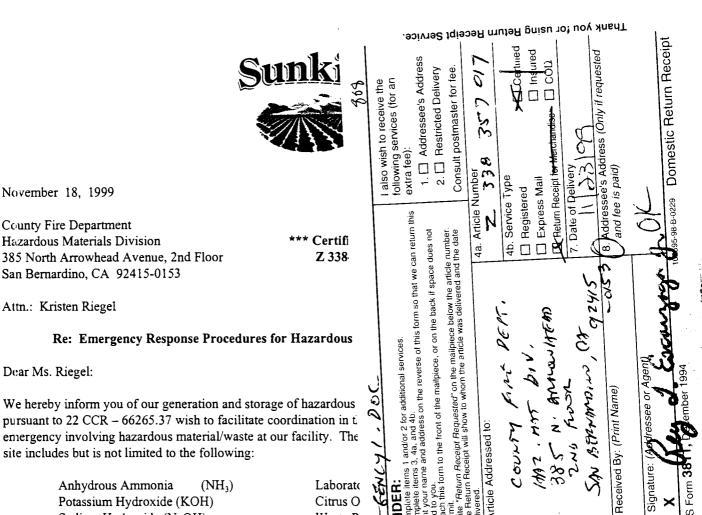
02595-98-B-0229 Domestic Return Receipt

December 1994

Addressee's Address (Only if requested

and fee is paid)

(Print Name



Anhydrous Ammonia  $(NH_3)$ Potassium Hydroxide (KOH) Sodium Hydroxide (NaOH) Waste Petroleum Oil

Laborato Citrus O Waste Pa

ls your RETURN ADDRESS completed on the reverse side?

Signature

PS Form

Pursuant to 22 CCR - 66265.52, we have developed an Emergency Response (Contingency) Plan to minimize hazards to human health or the environment from unplanned or sudden releases of hazardous material/waste, or from fires or explosions. As part of this program we have established emergency procedures and trained our personnel to immediately handle such unplanned or sudden occurrences. I have attached a copy of our Emergency Response (Contingency) Plan for your files.

Please inform us of your acknowledgment of this request to coordinate emergency response assistance. If you would like to visit our facility or have our personnel involved in any planning exercise, please advise the undersigned. If your assistance is required in the event of an emergency, it will be most appreciated.

Sincerely

Robert Eldridge

Director of Operations

November 18, 1999

County Fire Department

Attn.: Kristen Riegel

Dear Ms. Riegel:

Hazardous Materials Division

San Bernardino, CA 92415-0153

Attachment: Copy of Emergency Response (Contingency) Plan

cc: O. Belletto, T. Catlin, J. Figueroa, T. Moore, K. Moyer, W. Wells (agency1.doc)

Sunki

C. Signature

A. Received by (Please Print Clear(No.)

C. Signature

X. HOUUL (M.)

D. Is delivery address different from item 1?

If YES, enter delivery address below:

P.O. Box Soo!

P.O. Box Soo!

card to the back of the mailpiece

on the front if space permits.

Print your name and address on the reverse

3. Service Type

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Return

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Restricted Delivery? (Extra Fee)

Domestic Return Receipt

02595-99-M-1789

338 35702  $^{\mathrm{la}}$ 

November 02, 1999

SAN ANTONIO COMMUNITY HOSPITAL 999 San Bernardino Road Upland, CA 91786

Re: Emergency Response Procedures for Hazarc

To Whom It May Concern:

We hereby inform you of our generation and storage of hazard pursuant to 22 CCR – 66265.37 wish to facilitate coordination case of an emergency involving hazardous waste at our facility includes but is not limited to the following:

AMMONIA POTASSIUM HYDROXIDE SODIUM HYDROXIDE

(NH3) (KOH) ( NaOH)

SENDER: COMPLETE THIS SECTION

Pursuant to 22 CCR – 66265.52, we have developed an Emergency (Contingency) Plan to minimize hazards to human health or the environment from unplanned or sudden releases of hazardous waste, or from fires or explosions. As part of this program we have established emergency procedures and trained our personnel to immediately handle such unplanned or sudden occurrences. I have attached a copy of our Emergency Plan for your files.

Please inform us of your acknowledgement of this request to coordinate emergency response assistance. If you would like to visit our facility or have our personnel involved in any planning exercise, please advise the undersigned. If your assistance is required in the event of an emergency, it will be most appreciated.

Sincerely

Robert Eldridge
Director of Operations

Attachment: Copy of Hazardous Waste Emergency (Contingency) Plan



COMPLETE THIS SECTION ON DELIVERY

November 02, 1999

CITY OF ONTARIO POLICE DEPARTMENT 200 N Cherry Ave. Ontario, CA 91761

Re: Emergency Response Procedures for Hazardous

To Whom It May Concern:

SENDER: COMPLETE THIS SECTION We hereby inform you of our generation and storage of hazardou: pursuant to 22 CCR - 66265.37 wish to facilitate coordination in case of an emergency involving hazardous waste at our facility. The wastes we currently have on site includes but is not limited to the following:

**AMMONIA** (NH3)

POTASSIUM HYDROXIDE (KOH) SODIUM HYDROXIDE (NaOH)

Pursuant to 22 CCR - 66265.52, we have developed an Emergency (Contingency) Plan to minimize hazards to human health or the environment from unplanned or sudden releases of hazardous waste, or from fires or explosions. As part of this program we have established emergency procedures and trained our personnel to immediately handle such unplanned or sudden occurrences. I have attached a copy of our Enlergency Plan for your files.

Please inform us of your acknowledgement of this request to coordinate emergency response assistance. If you would like to visit our facility or have our personnel involved in any planning exercise, please advise the undersigned. If your assistance is required in the event of an emergency, it will be most appreciated.

Sincerely

Robert Eldridge

Director of Operations

Attachment: Copy of Hazardous Waste Emergency (Contingency) Plan

A. Received by (Please Print Clearly) Service Type
Certified Mail
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Insured Mail × this card to the back of the mailpiece or on the front if space permits

A Addressee

B. Date of Deliver

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estic Return Receipt

#### CONFIDENTIAL



December 20, 1999

Clint Seiter
Hazardous Waste Management Division
U. S. EPA Region IX
75 Hawthorne Street
San Francisco, CA 94105

\*\*\* Overnight Delivery \*\*\*

Sunkist Growers
John V. Newman Research Center
760 E. Sunkist Street
P.O. Box 3720
Ontario, CA 91761-1862
Tel: (909) 983-9811

Subject: WST-3-1 Sunkist Growers, Inc. CAD981412828 Supplemental Environmental Project

Dear Mr. Seiter,

In a phone conversation with Mr. Matthew Strassberg on December 13, 1999 there was discussion regarding the submission of a settlement proposal by Sunkist to the Agency for consideration. Specifically, the proposal is in the form of a Supplemental Environmental Project (SEP) in accordance with the EPA SEP Policy dated May 1, 1998.

In the Notice of Violation, deficiencies were identified in the Contingency Plan which were since corrected. Since this was a violation of an emergency planning element, Sunkist would like to propose a SEP in accordance with D7 of the SEP Policy document where emergency planning and preparedness assistance is provided to the Ontario Fire Department (OFD). Sunkist proposes to supply OFD with needed materials and/or supplies identified by the OFD in the amount allowable (75% of penalty amount; \$18,809.25) by the SEP policy.

Mr. Fred Nelson (Fire Chief) of the OFD was contacted and asked to provide a list specifying departmental needs. Attached you will find a copy of a facsimile confirming that contact has been made and the list will be developed and forwarded within the next two weeks. Upon receipt, an update will be provided to the Agency for review and consideration.

Please feel free to call me at (909)933-2393 or Terry Catlin at (909)933-2264 for clarification and/or further information and to provide any comments.

Sincerely,

Robert Eldridge

Director of Operations

attachments - City of Ontario Fire Department Correspondence, dated December 20, 1999

cc: O. Belletto, T. Catlin, K. Moyer, T. Moore, R. Peterson, W. Wells (epawst3f.doc)



## CITY OF ONTARIO FIRE DEPARTMENT

425 EAST "B" STREET • ONTARIO, CALIFORNIA 91764-4194 • (909) 986-4579 • FAX (909) 391-0668

December 20, 1999

SARY C. DVITT

ALAN D. WAPNER

GERALD A. DUBOIS PATRICK J. KING PAUL S. LEON COUNCIL MEMBERS

GREGORY G. DEVEREAUX

MARY E. WIRTER, CMG/AAE

JAMES R. MILHISER TREASURER

FRED C. NELSEN

Mr. Terry Catlin Sunkist Growers 616 E. Sunkist Street Ontario, CA 91761

Sir:

I have discussed the needs of the City of Ontario related to our ability to respond to environmental emergencies in our community.

We have two areas of concern related to our ability to adequately respond. First, our Disaster Manager has indicated a need for a computer program that would enhance our ability to manage evacuations of specific portions of the City during emergencies. Second, the commander of our Hazardous Materials Response Team has indicated that there are several areas of concern related to new or improved equipment that would increase the capability of the team.

I have them researching the specifics of their needs and should be able to forward the information to you within the next two weeks.

I thank you for your interest in assisting us in these matters.

Sincerely,

Fred C. Nelsen Fire Chief

Il Cillelan

















# UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION IX

In the matter of	)	U.S. EPA Docket No. RCRA 09-99-0006
Sunkist Growers, Inc. CAD981412828	) ) )	DETERMINATION OF VIOLATION COMPLIANCE ORDER AND
Respondent.	) ) )	NOTICE OF RIGHT TO REQUEST A HEARING

## DETERMINATION OF VIOLATION

# A. <u>INTRODUCTION</u>

- 1. This is a civil administrative enforcement action instituted pursuant to Section 3008(a)(1) of the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. § 6928(a)(1), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation or Suspension of Permits, 40 C.F.R. Part 22. Complainant is the United States Environmental Protection Agency, Region IX ("EPA"). Respondent is Sunkist Growers, Inc. ("Respondent").
- 2. Respondent owns and operates a facility that engages in the production and sale of citrus products, including fresh oranges, lemons, grapefruits, and tangerines, as well as juice, juice concentrate and oil extract from these fruits and that is located at 616 East Sunkist Street, Ontario, CA 91761 (the "Facility"). The Facility's EPA Identification No. is CAD981412828.
- 3. This Determination of Violation, Compliance Order and Notice of Right to Request a Hearing ("Complaint") serves as notice that EPA, on the basis of information available to it, has determined that Respondent violated Sections 3002, 3004, and 3005, of RCRA, 42 U.S.C. §§ 6922, 6924, 6925, and regulations adopted pursuant thereto, and that Respondent has violated the Hazardous Waste Control Law, Chapter 6.5 of Division 20 of the

California Health and Safety Code, and regulations adopted pursuant thereto at Title 22, Division 4.5 of the California Code of Regulations ("CCR"), 22 CCR §§ 66001, et seq.

## B. <u>JURISDICTION</u>

- 4. On August 1, 1992, the State of California received authorization to administer the hazardous waste management program in lieu of the federal program pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926 and 40 C.F.R. § 271. The authorized program is established pursuant to the Hazardous Waste Control Law, Chapter 6.5 of Division 20 of the California Health and Safety Code, and the regulations promulgated thereunder at Title 22, Division 4.5 of the California Code of Regulations ("CCR"), 22 CCR §§ 66001 et. seq. The State of California has been authorized for all the regulations referenced in this Complaint.
- 5. Respondent is a "person" as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), 40 C.F.R. §§ 260.10 and 270.2, and 22 CCR § 66260.10.
- 6. Respondent is a "generator" of hazardous waste as defined in 40 C.F.R. § 260.10 and 22 CCR § 66260.10.
- Respondent generates, or has generated, including but not limited to; Ignitable Waste (EPA Hazardous Waste No. D001), Corrosive Waste (EPA Hazardous Waste No. D002), Reactive Waste including Potassium Cyanide (EPA Hazardous Waste No. D003), Waste that is toxic under the Toxicity Characteristic Leaching Procedure including Chromium (EPA Hazardous Waste No. D007), Arsenic (EPA Hazardous Waste No. D004), Methyl Ethyl Ketone Hazardous Waste No. D035), Sodium Hydroxide (EPA Hazardous Waste No. D005), Waste Mercury (EPA Hazardous Waste No. D009 and U151), 2,4, D Pesticide (EPA Hazardous Waste No.D016 and U240). Respondent also generates, or has generated, Nonhalogenated Solvent (EPA Hazardous Waste No. F003), Liquid Organic Toxics (EPA Hazardous Waste No. P044), and Inorganic Toxic Solid Waste (EPA Hazardous Waste No. P096) which are "hazardous wastes" as defined in Section 1004(5) of RCRA, 42 U.S.C. § 6903(5),40 C.F.R. §§ 260.10 and 261.3, and 22 CCR §§ 66260.10 and 66261.3.
- 8. On or about May 2, 1986, pursuant to Section 3010 of RCRA, 42 U.S.C. § 6930, Respondent submitted a Notification of Hazardous Waste Activity to EPA.
- 9. Respondent is, therefore, subject to the regulations adopted pursuant to Sections 3002, 3004, and 3005 of RCRA, 42 U.S.C. §§

- 6922, 6924, and 6925.
- 10. Federal regulations establishing hazardous waste generator standards, 40 C.F.R. Part 262, became effective on November 19, 1980. State of California regulations establishing hazardous waste generator standards, 22 CCR § 66262, became effective July 1, 1991.
- 11. On or about December 4, 1998, EPA conducted an inspection at the Facility.
- 12. EPA inspected the areas of Respondent's facility where hazardous waste is generated or accumulated and evaluated various documents supplied by Respondent. EPA also reviewed Respondent's responses to information requests which the EPA made pursuant to its authority under Section 3007 of RCRA, 42 U.S.C. 6927. On the basis of this inspection, evaluation, and review, EPA determined that Respondent has violated the Hazardous Waste Control Law, Article 5.5 of Chapter 6.5 of Division 20 of the California Health and Safety Code and regulations adopted pursuant thereto at 22 CCR §§ 66262.11, 66262.34, 66265.16, 66235.35, 66265.52, 66265.173, and 66270.1. [Sections 3002, 3005, 3014 of RCRA, 42 U.S.C. §§ 6922, 6925, 6935 and regulations adopted pursuant thereto at 40 C.F.R. §§ 262.11, 262.34, 265.16, 265.35, 262.52, 265.173, and 270.1].
- 13. Section 3006 of RCRA, 42 U.S.C. § 6926 provides, <u>interalia</u>, that authorized state hazardous waste programs are carried out under Subtitle C of RCRA. Therefore, a violation of any requirement of law under an authorized state hazardous waste program is a violation of a requirement of Subtitle C of RCRA.
- 14. Respondent, in violating requirements of California's authorized hazardous waste program, violated Subtitle C of RCRA, and therefore is subject to the powers vested in the EPA Administrator by Section 3008 of RCRA, 42 U.S.C. § 6928.
- 15. Section 3008 of RCRA, 42 U.S.C. § 6928, authorizes the EPA Administrator to issue orders requiring compliance immediately or within a specified time for violation of any requirement of Subtitle C of RCRA, Section 3001 of RCRA et seq., 42 U.S.C. §6921 et seq.
- 16. Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), provides that when a violation of Subtitle C of RCRA occurs in a state which has been authorized under Section 3006 of RCRA, 42 U.S.C. § 6926, the Administrator must notify an authorized state prior to issuing an order under Section 3008 of RCRA in

that state. EPA sent notice to the State of California Department of Toxic Substance Control as required by Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

17. The Administrator has delegated the authority under Section 3008 of RCRA to the EPA Regional Administrator for Region IX, who has redelegated this authority to the Director of the Hazardous Waste Management Division.

## C. VIOLATIONS

## COUNT I

(Failure to Comply with Regulations Regarding the Use and Management of Containers)

- 18. Paragraphs 1 through 17 above are incorporated here and by reference as if they were set forth here in their entirety.
- 19. CCR Title 22 § 66265.173(a), consistent with 40 C.F.R. § 265.173(a), requires that a container holding hazardous waste shall always be closed during storage, except when it is necessary to add or remove waste.
- 20. On December 4, 1998, EPA inspectors observed an open container in the Paint Storage Satellite Accumulation Area. The inspectors detected a heavy solvent odor and Respondent identified the contents of the drum as oil-based paint waste. Respondent's 1995 Biennial Report and its 1997 Hazardous Waste Log confirm that Respondent generates paint waste classified D001 (ignitable hazardous waste).
- 21. Therefore Respondent has violated 22 CCR 66265.173(a) [40 C.F.R. § 265.173(a)].

# COUNT II

(Inadequate Personnel Training)

- 22. Paragraphs 1 through 21 above are incorporated here and by reference as if they were set forth here in their entirety.
- 23. CCR Title 22 § 66265.16(a)(1), consistent with 40 C.F.R. § 265.16(a)(1), requires that facility personnel must complete instruction or training that teaches them to perform their duties in a way that ensures the facility's compliance with applicable requirements for storage of hazardous waste. In

- particular, this section requires that personnel complete the specific training elements associated with their job description.
- 24. CCR Title 22 § 66265.16(c), consistent with 40 C.F.R. § 265.16(c), requires that personnel participate in an annual review of the initial required training.
- 25. CCR Title 22 § 66265.16(d), consistent with 40 C.F.R. § 265.16(d), requires that, for every employee whose job is related to hazardous waste, records be maintained indicating their name and job title, their job description and required skills, the training required, and the training completed.
- 26. During the inspection, Respondent stated that approximately twenty employees at the facility handle hazardous waste routinely as part of their jobs. Respondent was unable to provide training records at the time of the inspection. EPA inspectors requested, and Respondent agreed to furnish, records identifying individuals and job titles, position descriptions, training requirements, and training completed for all individuals with positions related to hazardous waste.
- 27. Records supplied by Respondent in response to this request consist of a single job description, for the position Environmental Specialist, and training records for two employees, Richard Esparza and Joe Figueroa.
- 28. Accordingly, Respondent failed to maintain a list of employees and job titles that included each of the approximately twenty employees whose job is related to hazardous waste as required by 22 CCR 66265.16(d)(1) [40 C.F.R. §265.16(d)(1)].
- 29. Accordingly, Respondent also failed to document the training of each of the approximately twenty employees whose jobs are related to hazardous waste as required by 22 CCR 66265.16(d)(4) [40 C.F.R. § 265.16(d)(4)].
- 30. With respect to the two employees for whom records were produced, the training records indicate that their most recent training occurred more than a year prior to the inspection and that no annual review of initial training had been completed.
- 31. The job description provided by Respondent for the position Environmental Specialist indicates that Hazardous Waste Operator Training is required for employees filling that position. Training records for the two employees for whom records were supplied indicate that neither has received such training for

more than a year prior to the inspection.

- 32. Accordingly, Respondent failed to ensure that each employee take part in an annual review of initial training as required by 22 CCR § 66265.16(c) [40 C.F.R. § 265.16(c)].
- 33. Therefore Respondent has violated 22 CCR § 66265.16(d) [40 C.F.R. § 265.16(d)] and 22 CCR § 66265.16(c) [40 C.F.R. § 265.16(c)].

# COUNT III

(Inadequate Preparedness and Prevention - Aisle Space)

- 34. Paragraphs 1 through 33 above are incorporated here and by reference as if they were set forth here in their entirety.
- 35. CCR Title 22 § 66265.35, consistent with 40 C.F.R. § 265.35, requires that aisle space sufficient to allow unobstructed movement of personnel, fire control equipment, spill control equipment, and decontamination equipment be maintained, unless it can be demonstrated that aisle space is not needed for any of these purposes.
- 36. On December 4, 1998, EPA inspectors observed that there were fourteen drums grouped together in the HSWA without aisle space prohibiting access to approximately one drum of RCRA hazardous waste and five drums of non-RCRA, California-only hazardous waste.
- 37. Therefore Respondent has violated 22 CCR § 66265.35 [40 C.F.R. § 265.35].

# COUNT IV

# (Inadequate Contingency Plan)

- 38. Paragraphs 1 through 37 above are incorporated here and by reference as if they were set forth here in their entirety.
- 39. CCR Title 22 § 66265.52, consistent with 40 C.F.R. § 265.52, requires that the contingency plan designed to minimize hazards from unplanned releases of hazardous materials include various elements. Among those required elements are a description of

arrangements agreed to by local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services; a list of emergency coordinators and a designation of the primary emergency coordinator; and a list of required emergency equipment and its location.

- 40. Respondent's contingency plan did not contain a description of arrangements agreed to by local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services. Nor did Respondent's contingency plan contain a designation of the primary emergency coordinator. Nor did Respondent's contingency plan contain the location of fire extinguishers.
- 41. Therefore Respondent has violated 22 CCR § 66265.52 [40 C.F.R. § 265.52].

# COUNT V

(Operating a Hazardous Waste Storage Facility Without a Permit)

- 42. Paragraphs 1 through 41 above are incorporated here and by reference as if they were set forth here in their entirety.
- 43. CCR Title 22 § 66270.1(c), consistent with 40 C.F.R. § 270.1(c), requires each person owning and operating a RCRA hazardous waste storage facility to have a permit.
- 44. Respondent does not have a permit to store hazardous waste under 22 CCR § 66270.1(c) [40 C.F.R. § 270.1(c)].
- 45. CCR Title 22 § 66262.34, consistent with 40 C.F.R. § 262.34, provides that generators of hazardous waste may accumulate hazardous waste on-site for a limited period of time, without a permit or grant of interim status, provided the generator complies with the requirements which are set forth in or referenced by 22 CCR § 66262.34 [40 C.F.R. § 262.34]. Those requirements include the following identified in paragraphs 46 through 52.
- 46. CCR Title 22 § 66262.34(a)(3), (e)(1)(E) and (f)(3) [40 C.F.R. § 262.34(a)(3) and (c)(1)(ii)] require that generators who accumulate hazardous waste on-site may only do so without a permit or grant of interim status if they label containers with the words "Hazardous Waste."
- 47. CCR Title 22 § 66262.34(a)(2), (a)(3), (f)(1), and (e)(1)(C)

- [40 C.F.R. § 262.34(a)(2) and (c)] require that generators who accumulate hazardous waste on-site may only do so without a permit or grant of interim status if they label containers with accumulation period start dates.
- 48. CCR Title 22 § 66262.34(e)(3) [40 C.F.R. § 262.34(c)(1)] requires that generators who accumulate hazardous waste on-site may only do so without a permit or grant of interim status if they limit hazardous waste accumulations at or near the point of generation to 55 gallons.
- 49. CCR Title 22 § 66262.34(a)(1)(A) [40 C.F.R. § 262.34(a)(1)(i)] requires that generators who accumulate hazardous waste on-site may only do so without a permit or grant of interim status if they comply with 22 CCR § 66265.173(a) [40 C.F.R. § 265.173(a)], which requires that containers be kept closed.
- 50. CCR Title 22 § 66262.34(a)(4) [40 C.F.R. § 262.34(a)(4)] requires that generators who accumulate hazardous waste on-site may only do so without a permit or grant of interim status if they comply with the personnel training regulations in 22 CCR § 66265.16 [40 C.F.R. § 265.16].
- 51. CCR Title 22 § 66262.34(a)(4) [40 C.F.R. § 262.34(a)(4)] requires that generators who accumulate hazardous waste on-site may only do so without a permit or grant of interim status if they comply with the aisle space requirements in CCR § 66265.35 [40 C.F.R. § 265.35].
- 52. CCR Title 22 § 66262.34(a)(4) [40 C.F.R. § 262.34(a)(4)] requires that generators who accumulate hazardous waste on-site may only do so without a permit or grant of interim status if they comply with the contingency plan requirements in CCR § 66265.52 [40 C.F.R. § 265.52].
- 53. Any generator who generates more than 100 kilograms per calendar month, or who generates less than 100 kilograms per calendar month but accumulates more than 1000 kilograms on site at any time, who fails to comply with the requirements of 22 CCR § 66262.34 [40 C.F.R. § 262.34] is subject to the permitting requirements of 22 CCR § 66270.1(c) [40 C.F.R. § 270.1(c)].
- 54. "Hazardous Waste" Labeling: Respondent failed to label or clearly mark each container containing hazardous waste with the words "Hazardous Waste" as required by 22 CCR § 66262.34(a)(3), (e)(1)(E) and (f)(3) [40 C.F.R. § 262.34(a)(3) and (c)(1)(ii)].

- 55. On December 4, 1998, EPA inspectors observed an open unlabeled container in the Paint Storage Satellite Accumulation Area. The inspectors detected a heavy solvent odor and Respondent identified the contents of the drum as paint waste. Respondent's 1995 Biennial Report and its 1997 Hazardous Waste Log confirm that Respondent generates paint waste classified D001 (ignitable hazardous waste). The container was not labeled or marked "Hazardous Waste."
- 56. Accumulation Period Start Date Labeling: Respondent failed to comply with the requirement that the date upon which each period of accumulation begins be clearly marked and visible for inspection on each container of hazardous waste as required by CCR Title 22 CCR § 66262.34(a)(2), (a)(3), (f)(1), and (e)(1)(C) [40 C.F.R. § 262.34(a)(2) and (c)].
- 57. On December 4, 1998, EPA inspectors observed in the HWSA a 55-gallon drum with ID number 1998315 labeled as "Waste Code D007 Hazardous Waste Solid," which did not have an accumulation start date on the label. Respondent advised that the drum had actually arrived at the area on November 19, 1998. Respondent's 1995 Biennial Report and its 1997 Hazardous Waste Log confirm that Respondent generates waste classified D007.
- 58. Satellite Accumulation Area Container Fill Date Labeling: With respect to hazardous waste accumulated at or near the point of generation, Respondent failed to mark the container holding the hazardous waste with the date on which the 55-gallon quantity limitation was reached and the date on which the 90-day accumulation period start date began as required by 22 CCR § 66262.34(e)(3), (a)(2), (a)(3), (f)(1), and (f)(2) [40 C.F.R. § 262.34(c)(2) and (a)].
- 59. On December 4, 1998, EPA inspectors observed in the HWSA a 55-gallon drum ID labeled 1998282, further labeled "D001 and California Waste Code 342 Combustible Liquids 7/30/98." Respondent's 1995 Biennial Report and its 1997 Hazardous Waste Log confirm that Respondent generates waste classified D001 [ignitable waste]. Respondent advised the inspectors that its Hazardous Waste Storage Area log book confirmed that the drum was moved to the HWSA from a satellite accumulation area on October 1, 1998 and that the date "7/30/98" was the accumulation start date at the satellite accumulation area. Respondent stated that a new date should have been added to the label when the drum was moved.
- 60. Open Containers: CCR Title 22 § 66262.34(a)(1)(A) [40 C.F.R.

- § 262.34(a)(1)(i)] requires that a generator of hazardous waste who accumulates hazardous waste on-site must comply with 22 CCR § 66265.173(a) [40 C.F.R. § 265.173(a)], which requires that a container holding hazardous waste must always be closed during stomage, except when it is necessary to add or remove waste.
- 61. One of Respondent's containers of hazardous waste were closed during storage, as set forth in paragraphs 18 through 21 above, which are incorporated here and by reference as if they were set forth here in their entirety.
- 62. Inadequate Training: CCR Title 22 § 66262.34(a)(4) [40 C.F.R. § 262.34(a)(4)] requires that a generator of hazardous waste who accumulates hazardous waste must comply with the personnel training regulations set forth in 22 CCR § 66265.16 [40 C.F.R. § 265.16].
- 63. Respondent failed to comply with the personnel training requirements of 22 CCR § 66265.16 [40 C.F.R. § 265.16] as set forth in paragraphs 22 through 33 above, which are incorporated here and by reference as if they were set forth here in their entirety.
- 64. Inadequate Preparedness and Prevention Aisle Space: CCR Title 22 § 66262.34(a)(4) [40 C.F.R. § 262.34(a)(4)] requires that a generator of hazardous waste accumulating hazardous waste on-site must comply with the Preparedness and Prevention regulations set forth in Article 3 of Chapter 15 of Title 22 of the California Code of Regulations, which includes the aisle space requirements set forth in CCR § 66265.35 [40 C.F.R. § 265.35].
- 65. Respondent failed to maintain adequate aisle space, as set forth in paragraphs 34 through 37 above, which are incorporated here and by reference as if they were set forth here in their entirety.
- 66. Inadequate Contingency Planning: CCR Title 22 § 66262.34(a)(4) [40 C.F.R. § 262.34(a)(4)] requires that a generator of hazardous waste accumulating hazardous waste on-site must comply with the Contingency Plan and Emergency Procedures regulations set forth in Article 4, Chapter 15, Title 22 of the California Code of Regulations, which includes the contingency plan content requirements set forth in CCR § 66265.52 [40 C.F.R. § 265.52].
- 67. Respondent failed to maintain a contingency plan meeting the

requirements of CCR § 66265.52 [40 C.F.R. § 265.52], as set forth in paragraphs 38 through 41 above, which are incorporated here and by reference as if they were set forth here in their entirety.

68. Therefore Respondent has violated 22 CCR § 66270.1(c) [40 C.F.R. § 270.1(c)] and 22 CCR § 66262.34 [40 C.F.R. § 262.34].

# D. <u>CIVIL PENALTY</u>

Section 3008(g) of RCRA, 42 U.S.C. §6928(g), authorizes a civil penalty of up to TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00) per day for each violation of Subtitle C of RCRA, 42 U.S.C. §6921 Based upon the facts alleged in this Complaint and upon those factors which the Complainant must consider pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. §6928(a)(3), and the RCRA Civil Penalty Policy, including the seriousness of the violations, any good faith efforts by the Respondent to comply with applicable requirements, and any economic benefit accruing to the Respondent, as well as such other matters as justice may require, the Complainant proposes that the Respondent be assessed TWENTY-SIX THOUSAND SEVEN HUNDRED THIRTY DOLLARS (\$26,730) as the civil penalty for the violations alleged in this Complaint. proposed penalties were calculated in accordance with the "October 1990 RCRA Civil Penalty Policy." Under the penalty policy, EPA uses a penalty assessment matrix, which is then adjusted to take into account multi-day violations, for casespecific circumstances, and for the economic benefit gained from non-compliance, where appropriate.

# Count I

# Open Container.....\$4,400

Using the penalty assessment matrix, EPA classified Count I, open container, as presenting a moderate potential for harm and a minor deviation from the requirement. The potential for harm was moderate because there was a significant likelihood or risk of human exposure from the heavy fumes accumulated in an enclosed space. The extent of deviation from the regulation was minor because only one drum was involved. The penalty was not adjusted for multi-day violations, case-specific circumstances or economic benefit.

# Count II

# Inadequate Training Records.....\$10,450

Using the penalty assessment matrix, EPA classified Count II, inadequate training records, as presenting a moderate potential for harm and a major deviation from the requirement. The potential for harm was moderate because failure to train significant numbers of workers involved with hazardous wastes may result in improper handling of hazardous wastes. considered the potential for harm as moderate because Respondent's failure to train its workers was evident in generally poor housekeeping of the accumulated hazardous wastes. Finally, EPA considered the potential for harm as moderate because, even if some training did take place, failure to document the training undermines the statutory purposes of RCRA. The extent of deviation from the regulations was major because Respondent failed to train or to document training of most of the employees involved with hazardous waste. The penalty was not adjusted for multi-day violations, case-specific circumstances or economic benefit.

## Count III

# Inadequate Aisle Space.....\$330

Using the penalty assessment matrix, EPA classified Count III, inadequate aisle space, as presenting a minor potential for harm and a minor deviation from the requirement. The potential for harm was minor because, although access was impaired to fourteen drums, only one contained RCRA wastes and five contained non-RCRA, California-only hazardous wastes. The extent of deviation from the regulations was minor because this was the only area without adequate aisle space. The penalty was not adjusted for multi-day violations, case-specific circumstances or economic benefit.

## Count IV

# Inadequate Contingency Plan.....\$1,100

Using the penalty assessment matrix, EPA classified Count IV, inadequate contingency plan, as presenting a minor potential for harm and a moderate deviation from the requirement. The potential for harm was minor because the critical elements of the contingency plan, including emergency contacts, information requirements, location of fire alarms and hoses, and evacuation plan, were in place. The extent of deviation from the regulations was moderate because the plan failed to reflect systematic attention to the regulatory requirements. The penalty

was not adjusted for multi-day violations, case-specific circumstances or economic benefit.

# Count V

# Operating a Storage Facility Without a Permit..\$10,450

Using the penalty assessment matrix, EPA classified Count V, operating a storage facility without a permit, as presenting a moderate potential for harm and a major deviation from the requirement. The potential for harm was moderate because failure to follow required procedures for temporary accumulation of hazardous wastes creates an increased risk of human or environmental exposure. In particular, failure to label hazardous waste properly creates a risk that it will not be recognized and handled as hazardous waste. Failure to observe the required protocol for recording accumulation period start dates increases the likelihood that wastes will accumulate in unsafe quantities and for extended periods. The extent of deviation from the regulations was major because, with respect to at least some containers, Respondent failed to meet almost all of the regulatory conditions for exemption from permit requirements. The penalty was not adjusted for multi-day violations, casespecific circumstances or economic benefit.

TOTAL PENALTY.....\$26,730

# COMPLIANCE ORDER

# A. PAYMENT OF CIVIL PENALTY

- 1. It is hereby ordered that Respondent shall submit the sum of TWENTY-SIX THOUSAND SEVEN HUNDRED THIRTY DOLLARS (\$26,730) using the enclosed EPA Form 2570-6, Funds Transfer Deposit. Please take this form to your bank and request that they wire the amount stated on the form through the Federal Reserve Communication System ("FRCS") to the account of the U.S. Treasury at the Federal Reserve Bank of New York. Payment shall be remitted within thirty (30) days of the Effective Date of this Complaint.
- 2. In accordance with the Debt Collection Act of 1982 and U.S. Treasury directive (TFRM 6-8000), payment must be received within thirty (30) days of the Effective Date of this Complaint to avoid additional charges. If payment is not received within thirty (30)

days, interest will accrue from the Effective Date of this Complaint at the current interest rate published by the U.S. Treasury as described at 40 C.F.R. §13.11. A late penalty charge of \$15.00 will be imposed after thirty (30) days with an additional charge of \$15.00 for each subsequent thirty (30) day period. A 6% per annum penalty will further apply on any principal amount not paid within ninety (90) days of the due date.

# B. <u>COMPLIANCE</u>

3. Respondent is ordered to come into compliance with the requirements of Sections 3002 and 3004 of RCRA, 42 U.S.C. §§ 6922 and 6924, and 22 CCR §§ 66262.34, 66262.11, 66265.173(a), 66265.16, 66265.35, and 66265.52 [40 C.F.R. Sections 262.34, 262.11, 265.173(a), 265.16, 265.35, and 265.52], to undertake the following activities, and to make submittals and certification to Complainant within the times specified below. All days are consecutive calendar days from the Effective Date of this Complaint.

In accordance with the findings presented in this Complaint, Respondent is hereby ordered to take the following actions:

- 4. Within thirty (30) days of the Effective Date, Respondent shall submit a training plan that will result in Respondent meeting the requirements of 22 CCR § 66265.16 [40 C.F.R. § 265.16] within ninety (90) days of the Effective Date. The plan to be submitted within thirty days shall include the preparation of the documentation required by 22 CCR § 66265.16(d) [40 C.F.R. § 265.16(d)]. The plan shall also identify for each employee whose job is related to hazardous waste management any training deficits under the requirements of 22 CCR § 66265.16 [40 C.F.R. § 265.16] as well as a plan to correct those deficits within ninety (90) days of the Effective Date.
- 5. Within ninety (90) days of the Effective Date, Respondent shall submit evidence of compliance with the requirements of 22 CCR § 66265.16 [40 C.F.R. § 265.16] with respect to employee training. The evidence to be submitted within thirty days shall at minimum include all of the documentation required by 22 CCR § 66265.16(d) [40 C.F.R. § 265.16(d)], which documentation shall be updated to reflect training activity undertaken during the ninety day period.
- 6. Within twenty (20) days of the Effective Date, Respondent shall submit evidence of compliance with the requirements of 22 CCR § 66265.52 [40 C.F.R. § 265.52] with respect to the following

amendments to the Respondent's contingency plan: (a) agreed arrangements with the local police department, fire department, hospitals, contractors, and State and local emergency response teams to coordinate emergency services; (b) a designation of the primary emergency coordinator, along with the emergency coordinator's telephone numbers and addresses; and (c) a list of all emergency equipment at the facility, including the location and physical description of each item on the list.

7. Respondent shall provide documentation of compliance with the above Compliance Order with submittals and certification within the time periods specified above to:

Clint Seiter
Hazardous Waste Management Division
U.S. EPA Region IX
75 Hawthorne St.
San Francisco, CA 94105

## C. FAILURE TO COMPLY

8. In the event Respondent fails to comply with any provision of the Compliance Order, then in accordance with Section 3008(c) of RCRA, 42 U.S.C. §6928(c), Respondent may be liable for an additional civil penalty up to TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00) for each day of continued noncompliance. Such continued non-compliance may also result in the institution of a civil or criminal judicial action.

#### NOTICE OF RIGHT TO REQUEST A HEARING

# A. PUBLIC HEARING

- 1. In accordance with Section 3008(b) of RCRA, 42 U.S.C. §6928(b), the Compliance Order set forth herein shall become final unless Respondent files an Answer and request for public hearing in writing no later than thirty (30) days after the Effective Date of this Complaint with the Regional Hearing Clerk, United States Environmental Protection Agency, Region IX, 75 Hawthorne St., San Francisco, California 94105. A copy of the Answer and request for hearing and copies of all other documents relating to these proceedings filed with the Regional Hearing Clerk should be sent to Matt Strassberg, Assistant Regional Counsel at the same address.
- 2. The Answer must clearly and directly admit, deny or explain

each of the factual allegations contained in the Complaint with regard to which Respondent has any knowledge. Where the Respondent has no knowledge of a particular factual allegation and so states, the allegation is deemed denied. A failure to admit, deny or explain any material fact or allegation contained in this Complaint will constitute an admission of the allegation. The Answer must also state (1) the circumstances or arguments which are alleged to constitute the grounds of defense (2) the facts which Respondent intends to place at issue (3) the basis for opposing any proposed relief, and (4) whether a hearing is requested.

- 3. If Respondent fails to file a written Answer within thirty (30) days of the Effective Date of this Complaint, Respondent may be found in default. Respondent's default will constitute an admission of all facts alleged in the Complaint and a waiver of Respondent's right to a hearing. A default order may thereafter be issued by the Regional Administrator of EPA and the penalty proposed in the Complaint will become due and payable without further proceedings.
- 4. Respondent may request a hearing on any material fact alleged in the complaint, or on the appropriateness of any proposed penalty, compliance, or corrective action order. If Respondent requests a public hearing, it will be held in a location determined in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation or Suspension of Permits, 40 C.F.R. Part 22, a copy of which accompanies the Complaint. The hearing will be conducted in accordance with the provisions of the Administrative Procedure Act, 5 U.S.C. §552 et seq., and 40 C.F.R. Part 22.
- 5. Pursuant to 40 C.F.R. §22.7(c) where a pleading or document is served by first class mail or commercial delivery service, but not by overnight or same-day service, five (5) days shall be added to the time allowed by these rules for the filing of a responsive pleading or document.

#### B. <u>INFORMAL SETTLEMENT</u>

6. Whether or not Respondent requests a hearing, Respondent may confier informally with EPA to discuss the alleged facts, violations and amount of the penalty. An informal conference does not, however, affect Respondent's obligation to file a written Answer within thirty (30) days of the Effective Date of the Complaint. The informal conference procedure may be pursued simultaneously with the adjudicatory hearing procedure.

- 7. In addition to the compliance schedule set forth in the Order above, any settlement reached as a result of an informal conference will be embodied in a written Consent Agreement and Final Order. The issuance of the Consent Agreement and Final Order will constitute waiver of Respondent's right to a hearing on any matter to which Respondent has stipulated.
- 8. If a settlement cannot be reached through an informal conference, the filing of a written Answer within thirty (30) days of the Effective Date of this Complaint will preserve Respondent's right to a hearing.
- 9. EPA encourages all parties against whom a penalty is proposed to explore the possibility of settlement. To request an informal conference, Respondent should contact Matt Strassberg, Assistant Regional Counsel, Office of Regional Counsel, at the above address, telephone number (415) 744-1370.

## EFFECTIVE DATE

The "Effective Date" of this Complaint is the date of Service. Service is complete when the return mail receipt is signed by the Respondent or a duly authorized representative of the Respondent, in accordance with the provisions of 40 C.F.R. §§ 22.5(b) and 22.7(c).

Date:

Julie Anderson Director Hazardous Waste Management Division

# CERTIFICATION OF SERVICE

I hereby certify that the original of the foregoing Determination of Violation, Compliance Order, and Notice of Right to Request a Hearing was filed with the Regional Hearing Clerk, Region IX, and that a copy was sent, along with a copy of 40 C.F.R. Part 22 Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation or Suspension of Permits, certified mail, return receipt requested, to:

Terry L. Catlin Senior Manager Research/Technical Services Sunkist Growers, Inc. 760 East Sunkist Street Ontario, CA 91761

Date

Lou Tully Waste Programs Division Region IX, United States Environmental Protection Agency



# UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

#### REGION IX

# 75 Hawthorne Street San Francisco, CA 94105-3901

September 20, 1999

In Reply Refer to: WST-3-1 Sunkist Growers, Inc. CAD981412828

Mr. Terry Catlin, Senior Manager Research/Technical Services Sunkist Growers, Inc. 760 East Sunkist St. Ontario, CA 91761

Re: Determination of Violation, Compliance Order, and Notice of Right to Request a

Hearing, U.S. EPA Docket No. RCRA 09-99-0006

Dear Mr. Catlin:

Enclosed is a Determination of Violation, Compliance Order, and Notice of Right to Request a Hearing (hereinafter "Complaint") concerning violations at your facility of the Resource Conservation and Recovery Act (RCRA), as amended, 42 U.S.C. Section 6901, et seq, Sunkist Growers, Inc.

The Complaint and the Rules of Practice, 40 C.F.R. Part 22, set forth the alternatives available to you in responding to the alleged facts, violations, proposed penalties, and opportunity for hearings. It should be emphasized that if you wish to request a hearing and avoid being found in default, you must file a written Answer within thirty (30) days of your receipt of the Complaint.

The EPA is interested in resolving the violations listed in the complaint. Whether or not you choose to request a hearing, you are encouraged to explore the possibility of settlement by contacting Matthew Strassberg (ORC-3, Assistant Regional Counsel), at (415) 744-1370.

Sincerely,

Julie Anderson

Director

Waste Management Division

Enclosure

cc: Paula Rasmussen, DTSC (with enclosure)

# UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION IX

In the matter of	) U.S. EPA Docket No.	
	) RCRA 09-99-0006	
Sunkist Growers, Inc.	DETERMINATION OF VIOLATI	ON
CAD981412828	) COMPLIANCE ORDER	
	) AND	
	) NOTICE OF RIGHT TO	
Respondent.	) REQUEST A HEARING	
•	)	

# DETERMINATION OF VIOLATION

# A. <u>INTRODUCTION</u>

- 1. This is a civil administrative enforcement action instituted pursuant to Section 3008(a)(1) of the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. § 6928(a)(1), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits, 40 C.F.R. Part 22. Complainant is the United States Environmental Protection Agency, Region IX ("EPA"). Respondent is Sunkist Growers, Inc. ("Respondent").
- 2. Respondent owns and operates a facility that engages in the production and sale of citrus products, including fresh oranges, lemons, grapefruits, and tangerines, as well as juice, juice concentrate and oil extract from these fruits and that is located at 616 East Sunkist Street, Ontario, CA 91761 (the "Facility"). The Facility's EPA Identification No. is CAD981412828.
- 3. This Determination of Violation, Compliance Order and Notice of Right to Request a Hearing ("Complaint") serves as notice that EPA, on the basis of information available to it, has determined that Respondent violated Sections 3002, 3004, and 3005, of RCRA, 42 U.S.C. §§ 6922, 6924, 6925, and regulations adopted pursuant thereto, and that Respondent has violated the Hazardous Waste Control Law, Chapter 6.5 of Division 20 of the

California Health and Safety Code, and regulations adopted pursuant thereto at Title 22, Division 4.5 of the California Code of Regulations ("CCR"), 22 CCR §§ 66001, et seq.

#### B. JURISDICTION

- 4. On August 1, 1992, the State of California received authorization to administer the hazardous waste management program in lieu of the federal program pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926 and 40 C.F.R. § 271. The authorized program is established pursuant to the Hazardous Waste Control Law, Chapter 6.5 of Division 20 of the California Health and Safety Code, and the regulations promulgated thereunder at Title 22, Division 4.5 of the California Code of Regulations ("CCR"), 22 CCR §§ 66001 et. seg. The State of California has been authorized for all the regulations referenced in this Complaint.
- 5. Respondent is a "person" as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), 40 C.F.R. §§ 260.10 and 270.2, and 22 CCR § 66260.10.
- 6. Respondent is a "generator" of hazardous waste as defined in 40 C.F.R. § 260.10 and 22 CCR § 66260.10.
- Respondent generates, or has generated, hazardous waste, including but not limited to; Ignitable Waste (EPA Hazardous Waste No. D001), Corrosive Waste (EPA Hazardous Waste No. D002), Reactive Waste including Potassium Cyanide (EPA Hazardous Waste No. D003), Waste that is toxic under the Toxicity Characteristic Leaching Procedure including Chromium (EPA Hazardous Waste No. D007), Arsenic (EPA Hazardous Waste No. D004), Methyl Ethyl Ketone Hazardous Waste No. D035), Sodium Hydroxide (EPA Hazardous Waste No. D005), Waste Mercury (EPA Hazardous Waste No. D009 and U151), 2,4, D Pesticide (EPA Hazardous Waste No.D016 and U240). Respondent also generates, or has generated, Nonhalogenated Solvent (EPA Hazardous Waste No. F003), Liquid Organic Toxics (EPA Hazardous Waste No. P044), and Inorganic Toxic Solid Waste (EPA Hazardous Waste No. P096) which are "hazardous wastes" as defined in Section 1004(5) of RCRA, 42 U.S.C. § 6903(5),40 C.F.R. §§ 260.10 and 261.3, and 22 CCR §§ 66260.10 and 66261.3.
- 8. On or about May 2, 1986, pursuant to Section 3010 of RCRA, 42 U.S.C. § 6930, Respondent submitted a Notification of Hazardous Waste Activity to EPA.
- 9. Respondent is, therefore, subject to the regulations adopted

- pursuant to Sections 3002, 3004, and 3005 of RCRA, 42 U.S.C. §§ 6922, 6924, and 6925.
- 10. Federal regulations establishing hazardous waste generator standards, 40 C.F.R. Part 262, became effective on November 19, 1980. State of California regulations establishing hazardous waste generator standards, 22 CCR § 66262, became effective July 1, 1991.
- 11. On or about December 4, 1998, EPA conducted an inspection at the Facility.
- 12. EPA inspected the areas of Respondent's facility where hazardous waste is generated or accumulated and evaluated various documents supplied by Respondent. EPA also reviewed Respondent's responses to information requests which the EPA made pursuant to its authority under Section 3007 of RCRA, 42 U.S.C. 6927. On the basis of this inspection, evaluation, and review, EPA determined that Respondent has violated the Hazardous Waste Control Law, Article 5.5 of Chapter 6.5 of Division 20 of the California Health and Safety Code and regulations adopted pursuant thereto at 22 CCR §§ 66262.11, 66262.34, 66265.16, 66235.35, 66265.52, 66265.173, and 66270.1. [Sections 3002, 3005, 3014 of RCRA, 42 U.S.C. §§ 6922, 6925, 6935 and regulations adopted pursuant thereto at 40 C.F.R. §§ 262.11, 262.34, 265.16, 265.35, 262.52, 265.173, and 270.1].
- 13. Section 3006 of RCRA, 42 U.S.C. § 6926 provides, interalia, that authorized state hazardous waste programs are carried out under Subtitle C of RCRA. Therefore, a violation of any requirement of law under an authorized state hazardous waste program is a violation of a requirement of Subtitle C of RCRA.
- 14. Respondent, in violating requirements of California's authorized hazardous waste program, violated Subtitle C of RCRA, and therefore is subject to the powers vested in the EPA Administrator by Section 3008 of RCRA, 42 U.S.C. § 6928.
- 15. Section 3008 of RCRA, 42 U.S.C. § 6928, authorizes the EPA Administrator to issue orders requiring compliance immediately or within a specified time for violation of any requirement of Subtitle C of RCRA, Section 3001 of RCRA et seg., 42 U.S.C. §6921 et seg.
- 16. Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), provides that when a violation of Subtitle C of RCRA occurs in a state which has been authorized under Section 3006 of RCRA, 42 U.S.C. § 6926, the Administrator must notify an authorized

state prior to issuing an order under Section 3008 of RCRA in that state. EPA sent notice to the State of California Department of Toxic Substance Control as required by Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

17. The Administrator has delegated the authority under Section 3008 of RCRA to the EPA Regional Administrator for Region IX, who has redelegated this authority to the Director of the Hazardous Waste Management Division.

# C. VIOLATIONS

# COUNT I

(Failure to Comply with Regulations Regarding the Use and Management of Containers)

- 18. Paragraphs 1 through 17 above are incorporated here and by reference as if they were set forth here in their entirety.
- 19. CCR Title 22 § 66265.173(a), consistent with 40 C.F.R. § 265.173(a), requires that a container holding hazardous waste shall always be closed during storage, except when it is necessary to add or remove waste.
- 20. On December 4, 1998, EPA inspectors observed an open container in the Paint Storage Satellite Accumulation Area. The inspectors detected a heavy solvent odor and Respondent identified the contents of the drum as oil-based paint waste. Respondent's 1995 Biennial Report and its 1997 Hazardous Waste Log confirm that Respondent generates paint waste classified D001 (ignitable hazardous waste). Respondent's manifest, dated February 1999, confirmed that the drum contained D001 hazardous waste.
- 21. Therefore Respondent has violated 22 CCR 66265.173(a) [40 C.F.R. § 265.173(a)].

#### COUNT II

# (Inadequate Personnel Training)

- 22. Paragraphs 1 through 21 above are incorporated here and by reference as if they were set forth here in their entirety.
- 23. CCR Title 22 § 66265.16(a)(1), consistent with 40 C.F.R. § 265.16(a)(1), requires that facility personnel must complete

instruction or training that teaches them to perform their duties in a way that ensures the facility's compliance with applicable requirements for storage of hazardous waste. In particular, this section requires that personnel complete the specific training elements associated with their job description.

- 24. CCR Title 22 § 66265.16(c), consistent with 40 C.F.R. § 265.16(c), requires that personnel participate in an annual review of the initial required training.
- 25. CCR Title 22 § 66265.16(d), consistent with 40 C.F.R. § 265.16(d), requires that, for every employee whose job is related to hazardous waste, records be maintained indicating their name and job title, their job description and required skills, the training required, and the training completed.
- 26. During the inspection, Respondent stated that approximately twenty employees at the facility handle hazardous waste routinely as part of their jobs. Respondent was unable to provide training records at the time of the inspection. EPA inspectors requested, and Respondent agreed to furnish, records identifying individuals and job titles, position descriptions, training requirements, and training completed for all individuals with positions related to hazardous waste.
- 27. Records supplied by Respondent in response to this request consist of a single job description, for the position Environmental Specialist, and training records for two employees, Richard Esparza and Joe Figueroa.
- 28. Accordingly, Respondent failed to maintain a list of employees and job titles that included each of the approximately twenty employees whose job is related to hazardous waste as required by 22 CCR 66265.16(d)(1) [40 C.F.R. §265.16(d)(1)].
- 29. Accordingly, Respondent also failed to document the training of each of the approximately twenty employees whose jobs are related to hazardous waste as required by 22 CCR 66265.16(d)(4) [40 C.F.R. § 265.16(d)(4)].
- 30. With respect to the two employees for whom records were produced, the training records indicate that their most recent training occurred more than a year prior to the inspection and that no annual review of initial training had been completed.
- 31. The job description provided by Respondent for the position Environmental Specialist indicates that Hazardous Waste Operator

Training is required for employees filling that position. Training records for the two employees for whom records were supplied indicate that neither has received such training for more than a year prior to the inspection.

- 32. Accordingly, Respondent failed to ensure that each employee take part in an annual review of initial training as required by 22 CCR § 66265.16(c) [40 C.F.R. § 265.16(c)].
- 33. Therefore Respondent has violated 22 CCR § 66265.16(d) [40 C.F.R. § 265.16(d)] and 22 CCR § 66265.16(c) [40 C.F.R. § 265.16(c)].

# COUNT III

(Inadequate Preparedness and Prevention - Aisle Space)

- 34. Paragraphs 1 through 33 above are incorporated here and by reference as if they were set forth here in their entirety.
- 35. CCR Title 22 § 66265.35, consistent with 40 C.F.R. § 265.35, requires that aisle space sufficient to allow unobstructed movement of personnel, fire control equipment, spill control equipment, and decontamination equipment be maintained, unless it can be demonstrated that aisle space is not needed for any of these purposes.
- 36. On December 4, 1998, EPA inspectors observed that there were fourteen drums grouped together in the Hazardous Waste Storage Area ("HWSA") without aisle space prohibiting access to at least one drum of RCRA hazardous waste and five drums of non-RCRA, California-only hazardous waste.
- 37. Therefore Respondent has violated 22 CCR § 66265.35 [40 C.F.R. § 265.35].

# COUNT IV

# (Inadequate Contingency Plan)

- 38. Paragraphs 1 through 37 above are incorporated here and by reference as if they were set forth here in their entirety.
- 39. CCR Title 22 § 66265.52, consistent with 40 C.F.R. § 265.52,

requires that the contingency plan designed to minimize hazards from unplanned releases of hazardous materials include various elements. Among those required elements are a description of arrangements agreed to by local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services; a list of emergency coordinators and a designation of the primary emergency coordinator; and a list of required emergency equipment and its location.

- 40. Respondent's contingency plan did not contain a description of arrangements agreed to by local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services. Respondent's contingency plan did not contain a designation of the primary emergency coordinator. Respondent's contingency plan did not contain the location of fire extinguishers.
- 41. Therefore Respondent has violated 22 CCR § 66265.52 [40 C.F.R. § 265.52].

#### COUNT V

(Operating a Hazardous Waste Storage Facility Without a Permit)

- 42. Paragraphs 1 through 41 above are incorporated here and by reference as if they were set forth here in their entirety.
- 43. CCR Title 22 § 66270.1(c), consistent with 40 C.F.R. § 270.1(c), requires each person owning and operating a RCRA hazardous waste storage facility to have a permit.
- 44. Respondent does not have a permit to store hazardous waste under 22 CCR § 66270.1(c) [40 C.F.R. § 270.1(c)].
- 45. CCR Title 22 § 66262.34, consistent with 40 C.F.R. § 262.34, provides that generators of hazardous waste may accumulate hazardous waste on-site for a limited period of time, without a permit or grant of interim status, provided the generator complies with the requirements which are set forth in or referenced by 22 CCR § 66262.34 [40 C.F.R. § 262.34]. Those requirements include the following identified in paragraphs 46 through 52.
- 46. CCR Title 22 § 66262.34(a)(3), (e)(1)(E) and (f)(3) [40 C.F.R. § 262.34(a)(3) and (c)(1)(ii)] require that generators who accumulate hazardous waste on-site may only do so without a permit or grant of interim status if they label containers with

the words "Hazardous Waste."

- 47. CCR Title 22 § 66262.34(a)(2), (a)(3), (f)(1), and (e)(1)(C) [40 C.F.R. § 262.34(a)(2) and (c)] require that generators who accumulate hazardous waste on-site may only do so without a permit or grant of interim status if they label containers with accumulation period start dates.
- 48. CCR Title 22 § 66262.34(e)(3) [40 C.F.R. § 262.34(c)(1)] requires that generators who accumulate hazardous waste on-site may only do so without a permit or grant of interim status if they limit hazardous waste accumulations at or near the point of generation to 55 gallons.
- 49. CCR Title 22 § 66262.34(a)(1)(A) [40 C.F.R. § 262.34(a)(1)(i)] requires that generators who accumulate hazardous waste on-site may only do so without a permit or grant of interim status if they comply with 22 CCR § 66265.173(a) [40 C.F.R. § 265.173(a)], which requires that containers be kept closed.
- 50. CCR Title 22 § 66262.34(a)(4) [40 C.F.R. § 262.34(a)(4)] requires that generators who accumulate hazardous waste on-site may only do so without a permit or grant of interim status if they comply with the personnel training regulations in 22 CCR § 66265.16 [40 C.F.R. § 265.16].
- 51. CCR Title 22 § 66262.34(a)(4) [40 C.F.R. § 262.34(a)(4)] requires that generators who accumulate hazardous waste on-site may only do so without a permit or grant of interim status if they comply with the aisle space requirements in CCR § 66265.35 [40 C.F.R. § 265.35].
- 52. CCR Title 22 § 66262.34(a)(4) [40 C.F.R. § 262.34(a)(4)] requires that generators who accumulate hazardous waste on-site may only do so without a permit or grant of interim status if they comply with the contingency plan requirements in CCR § 66265.52 [40 C.F.R. § 265.52].
- 53. Any generator who generates more than 100 kilograms per calendar month, or who generates less than 100 kilograms per calendar month but accumulates more than 1000 kilograms on site at any time, who fails to comply with the requirements of 22 CCR § 66262.34 [40 C.F.R. § 262.34] is subject to the permitting requirements of 22 CCR § 66270.1(c) [40 C.F.R. § 270.1(c)].
- 54. "Hazardous Waste" Labeling: Respondent failed to label or clearly mark each container containing hazardous waste with the

- words "Hazardous Waste" as required by 22 CCR § 66262.34(a)(3), (e)(1)(E) and (f)(3) [40 C.F.R. § 262.34(a)(3) and (c)(1)(ii)].
- 55. On December 4, 1998, EPA inspectors observed an open unlabeled container in the Paint Storage Satellite Accumulation Area. The inspectors detected a heavy solvent odor and Respondent identified the contents of the drum as paint waste. Respondent's 1995 Biennial Report and its 1997 Hazardous Waste Log confirm that Respondent generates paint waste classified D001 (ignitable hazardous waste). The container was not labeled or marked "Hazardous Waste."
- 56. Accumulation Period Start Date Labeling: Respondent failed to comply with the requirement that the date upon which each period of accumulation begins be clearly marked and visible for inspection on each container of hazardous waste as required by CCR Title 22 CCR § 66262.34(a)(2), (a)(3), (f)(1), and (e)(1)(C) [40 C.F.R. § 262.34(a)(2) and (c)].
- 57. On December 4, 1998, EPA inspectors observed in the HWSA a 55-gallon drum with ID number 1998315 labeled as "Waste Code D007 Hazardous Waste Solid," which did not have an accumulation start date on the label. Respondent advised that the drum had actually arrayed at the area on November 19, 1998. Respondent's 1995 Biennial Report and its 1997 Hazardous Waste Log confirm that Respondent generates waste classified D007.
- 58. Satellite Accumulation Area Container Fill Date Labeling: With respect to hazardous waste accumulated at or near the point of generation, Respondent failed to mark the container holding the hazardous waste with the date on which the 55-gallon quantity limitation was reached and the date on which the 90-day accumulation period start date began as required by 22 CCR § 66262.34(e)(3), (a)(2), (a)(3), (f)(1), and (f)(2) [40 C.F.R. § 262.34(c)(2) and (a)].
- 59. On December 4, 1998, EPA inspectors observed in the HWSA a 55-gallon drum ID labeled 1998282, further labeled "D001 and California Waste Code 342 Combustible Liquids 7/30/98." Respondent's 1995 Biennial Report and its 1997 Hazardous Waste Log confirm that Respondent generates waste classified D001 [ignitable waste]. Respondent advised the inspectors that its Hazardous Waste Storage Area log book confirmed that the drum was moved to the HWSA from a satellite accumulation area on October 1, 1998 and that the date "7/30/98" was the accumulation start date at the satellite accumulation area. Respondent stated that a new date should have been added to the label when the drum was

moved.

- 60. Open Containers: CCR Title 22 § 66262.34(a)(1)(A) [40 C.F.R. § 262.34(a)(1)(i)] requires that a generator of hazardous waste who accumulates hazardous waste on-site must comply with 22 CCR § 66265.173(a) [40 C.F.R. § 265.173(a)], which requires that a container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.
- 61. One of Respondent's containers of hazardous waste were closed during storage, as set forth in paragraphs 18 through 21 above, which are incorporated here and by reference as if they were set forth here in their entirety.
- 62. Inadequate Training: CCR Title 22 § 66262.34(a)(4) [40 C.F.R. § 262.34(a)(4)] requires that a generator of hazardous waste who accumulates hazardous waste must comply with the personnel training regulations set forth in 22 CCR § 66265.16 [40 C.F.R. § 265.16].
- 63. Respondent failed to comply with the personnel training requirements of 22 CCR § 66265.16 [40 C.F.R. § 265.16] as set forth in paragraphs 22 through 33 above, which are incorporated here and by reference as if they were set forth here in their entirety.
- 64. Inadequate Preparedness and Prevention Aisle Space: CCR Title 22 § 66262.34(a)(4) [40 C.F.R. § 262.34(a)(4)] requires that a generator of hazardous waste accumulating hazardous waste on-site must comply with the Preparedness and Prevention regulations set forth in Article 3 of Chapter 15 of Title 22 of the California Code of Regulations, which includes the aisle space requirements set forth in CCR § 66265.35 [40 C.F.R. § 265.35].
- 65. Respondent failed to maintain adequate aisle space, as set forth in paragraphs 34 through 37 above, which are incorporated here and by reference as if they were set forth here in their entirety.
- 66. Inadequate Contingency Planning: CCR Title 22 § 66262.34(a)(4) [40 C.F.R. § 262.34(a)(4)] requires that a generator of hazardous waste accumulating hazardous waste on-site must comply with the Contingency Plan and Emergency Procedures regulations set forth in Article 4, Chapter 15, Title 22 of the California Code of Regulations, which includes the contingency plan content requirements set forth in CCR § 66265.52 [40]

# C.F.R. § 265.52].

- 67. Respondent failed to maintain a contingency plan meeting the requirements of CCR § 66265.52 [40 C.F.R. § 265.52], as set forth in paragraphs 38 through 41 above, which are incorporated here and by reference as if they were set forth here in their entirety.
- 68. Therefore Respondent has violated 22 CCR § 66270.1(c) [40 C.F.R. § 270.1(c)] and 22 CCR § 66262.34 [40 C.F.R. § 262.34].

# D. CIVIL PENALTY

Section 3008(g) of RCRA, 42 U.S.C. §6928(g), and the regulations implementing the Debt Collection Improvement Act of 1996, 40 CFR § Parts 1 and 19, authorize a civil penalty of up to TWENTY-SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$27,500.00) per day for each violation of Subtitle C of RCRA, 42 U.S.C. §6921 et seq. Based upon the facts alleged in this Complaint and upon those factors which the Complainant must consider pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. §6928(a)(3), and the RCRA Civil Penalty Policy, including the seriousness of the violations, any good faith efforts by the Respondent to comply with applicable requirements, and any economic benefit accruing to the Respondent, as well as such other matters as justice may require, the Complainant proposes that the Respondent be assessed TWENTY-FIVE THOUSAND SEVENTY NINE DOLLARS (\$25,079) as the civil penalty for the violations alleged in this Complaint. The proposed penalties were calculated in accordance with the "October 1990 RCRA Civil Penalty Policy." Under the penalty policy, EPA uses a penalty assessment matrix, which is then adjusted to take into account multi-day violations, for case-specific circumstances, and for the economic benefit gained from non-compliance, where appropriate.

# Count I

# Open Container.....\$4,400

Using the penalty assessment matrix, EPA classified Count I, open container, as presenting a moderate potential for harm and a minor deviation from the requirement. The potential for harm was moderate because there was a significant likelihood or risk of human exposure from the heavy fumes accumulated in an enclosed space. The extent of deviation from the regulation was minor because only one drum was involved. The penalty was not adjusted

for multi-day violations, case-specific circumstances or economic benefit.

# Count II

# Inadequate Training Records.....\$10,450

Using the penalty assessment matrix, EPA classified Count II, inadequate training records, as presenting a moderate potential for harm and a major deviation from the requirement. The potential for harm was moderate because failure to train significant numbers of workers involved with hazardous wastes may result in improper handling of hazardous wastes. EPA also considered the potential for harm as moderate because Respondent's failure to train its workers was evident in generally poor housekeeping of the accumulated hazardous wastes. Finally, EPA considered the potential for harm as moderate because, even if some training did take place, failure to document the training undermines the statutory purposes of RCRA. The extent of deviation from the regulations was major because Respondent failed to train or to document training of most of the employees involved with hazardous waste. The penalty was not adjusted for multi-day violations, case-specific circumstances or economic benefit.

# Count III

# Inadequate Aisle Space.....\$330

Using the penalty assessment matrix, EPA classified Count III, inadequate aisle space, as presenting a minor potential for harm and a minor deviation from the requirement. The potential for harm was minor because, although access was impaired to fourteen drums, only one contained RCRA wastes and five contained non-RCRA, California-only hazardous wastes. The extent of deviation from the regulations was minor because this was the only area without adequate aisle space. The penalty was not adjusted for multi-day violations, case-specific circumstances or economic benefit.

#### Count IV

# Inadequate Contingency Plan.....\$1,100

Using the penalty assessment matrix, EPA classified Count IV, inadequate contingency plan, as presenting a minor potential for harm and a moderate deviation from the requirement. The potential for harm was minor because the critical elements of the

contingency plan, including emergency contacts, information requirements, location of fire alarms and hoses, and evacuation plan, were in place. The extent of deviation from the regulations was moderate because the plan failed to reflect systematic attention to the regulatory requirements. The penalty was not adjusted for multi-day violations, case-specific circumstances or economic benefit.

# Count V

# Operating a Storage Facility Without a Permit..\$8,799

Using the penalty assessment matrix, EPA classified Count V, operating a storage facility without a permit, as presenting a moderate potential for harm and a moderate deviation from the requirement. The potential for harm was moderate because failure to follow required procedures for temporary accumulation of hazardous wastes creates an increased risk of human or environmental exposure. In particular, failure to label hazardous waste properly creates a risk that it will not be recognized and handled as hazardous waste. Failure to observe the required protocol for recording accumulation period start dates increases the likelihood that wastes will accumulate in unsafe quantities and for extended periods. The extent of deviation from the regulations was moderate because, with respect to at least some containers, Respondent failed to meet a significant number of the regulatory conditions for exemption from permit requirements. The penalty was not adjusted for multiday violations, case-specific circumstances or economic benefit.

TOTAL PENALTY.....\$25,079

# COMPLIANCE ORDER

# A. PAYMENT OF CIVIL PENALTY

1. It is hereby ordered that Respondent shall submit the sum of TWENTY-FIVE THOUSAND SEVENTY NINE DOLLARS (\$25,079) using the enclosed EPA Form 2570-6, Funds Transfer Deposit. Please take this form to your bank and request that they wire the amount stated on the form through the Federal Reserve Communication System ("FRCS") to the account of the U.S. Treasury at the Federal Reserve Bank of New York. Payment shall be remitted within thirty (30) days of the Effective Date of this Complaint.

2. In accordance with the Debt Collection Act of 1982 and U.S. Treasury directive (TFRM 6-8000), payment must be received within thirty (30) days of the Effective Date of this Complaint to avoid additional charges. If payment is not received within thirty (30) days, interest will accrue from the Effective Date of this Complaint at the current interest rate published by the U.S. Treasury as described at 40 C.F.R. §13.11. A late penalty charge of \$15.00 will be imposed after thirty (30) days with an additional charge of \$15.00 for each subsequent thirty (30) day period. A 6% per annum penalty will further apply on any principal amount not paid within ninety (90) days of the due date.

# B. <u>COMPLIANCE</u>

3. Respondent is ordered to come into compliance with the requirements of Sections 3002 and 3004 of RCRA, 42 U.S.C. §§ 6922 and 6924, and 22 CCR §§ 66262.34, 66262.11, 66265.173(a), 66265.16, 66265.35, and 66265.52 [40 C.F.R. Sections 262.34, 262 11, 265.173(a), 265.16, 265.35, and 265.52], to undertake the following activities, and to make submittals and certification to Complainant within the times specified below. All days are consecutive calendar days from the Effective Date of this Complaint.

In accordance with the findings presented in this Complaint, Respondent is hereby ordered to take the following actions:

- 4. Within thirty (30) days of the Effective Date, Respondent shall submit a training plan that will result in Respondent meeting the requirements of 22 CCR § 66265.16 [40 C.F.R. § 265.16] within ninety (90) days of the Effective Date. The plan to be submitted within thirty days shall include the preparation of the documentation required by 22 CCR § 66265.16(d) [40 C.F.R. § 265.16(d)]. The plan shall also identify for each employee whose job is related to hazardous waste management any training deficits under the requirements of 22 CCR § 66265.16 [40 C.F.R. § 265.16] as well as a plan to correct those deficits within ninety (90) days of the Effective Date.
- 5. Within ninety (90) days of the Effective Date, Respondent shall submit evidence of compliance with the requirements of 22 CCR § 66265.16 [40 C.F.R. § 265.16] with respect to employee training. The evidence to be submitted within thirty days shall at minimum include all of the documentation required by 22 CCR § 66265.16(d) [40 C.F.R. § 265.16(d)], which documentation shall be updated to reflect training activity undertaken during the ninety

day period.

- 6. Within twenty (20) days of the Effective Date, Respondent shall submit evidence of compliance with the requirements of 22 CCR § 66265.52 [40 C.F.R. § 265.52] with respect to the following amendments to the Respondent's contingency plan: (a) agreed arrangements with the local police department, fire department, hospitals, contractors, and State and local emergency response teams to coordinate emergency services; (b) a designation of the primary emergency coordinator, along with the emergency coordinator's telephone numbers and addresses; and (c) a list of all emergency equipment at the facility, including the location and physical description of each item on the list.
- 7. Respondent shall provide documentation of compliance with the above Compliance Order with submittals and certification within the time periods specified above to:

Clint Seiter
Hazardous Waste Management Division
U.S. EPA Region IX
75 Hawthorne St.
San Francisco, CA 94105

# C. FAILURE TO COMPLY

8. In the event Respondent fails to comply with any provision of the Compliance Order, then in accordance with Section 3008(c) of RCRA, 42 U.S.C. §6928(c), Respondent may be liable for an additional civil penalty up to TWENTY-SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$27,500.00) for each day of continued noncompliance. Such continued non-compliance may also result in the institution of a civil or criminal judicial action.

# NOTICE OF RIGHT TO REQUEST A HEARING

#### A. PUBLIC HEARING

1. In accordance with Section 3008(b) of RCRA, 42 U.S.C. §6928(b), the Compliance Order set forth herein shall become final unless Respondent files an Answer and request for public hearing in writing no later than thirty (30) days after the Effective Date of this Complaint with the Regional Hearing Clerk, United States Environmental Protection Agency, Region IX, 75 Hawthorne St., San Francisco, California 94105. A copy of the Answer and request for hearing and copies of all other documents

relating to these proceedings filed with the Regional Hearing Clerk should be sent to Matt Strassberg, Assistant Regional Counsel at the same address.

- 2. The Answer must clearly and directly admit, deny or explain each of the factual allegations contained in the Complaint with regard to which Respondent has any knowledge. Where the Respondent has no knowledge of a particular factual allegation and so states, the allegation is deemed denied. A failure to admit, deny or explain any material fact or allegation contained in this Complaint will constitute an admission of the allegation. The Answer must also state (1) the circumstances or arguments which are alleged to constitute the grounds of defense (2) the facts which Respondent intends to place at issue (3) the basis for opposing any proposed relief, and (4) whether a hearing is requested.
- 3. If Respondent fails to file a written Answer within thirty (30) days of the Effective Date of this Complaint, Respondent may be found in default. Respondent's default will constitute an admission of all facts alleged in the Complaint and a waiver of Respondent's right to a hearing. A default order may thereafter be issued by the Regional Administrator of EPA and the penalty proposed in the Complaint will become due and payable without further proceedings.
- 4. Respondent may request a hearing on any material fact alleged in the complaint, or on the appropriateness of any proposed penalty, compliance, or corrective action order. If Respondent requests a public hearing, it will be held in a location determined in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits, 40 C.F.R. Part 22, a copy of which accompanies the Complaint. The hearing will be conducted in accordance with the provisions of the Administrative Procedure Act, 5 U.S.C. §552 et seg., and 40 C.F.R. Part 22.
- 5. Pursuant to 40 C.F.R. §22.7(c) where a pleading or document is served by first class mail or commercial delivery service, but not by overnight or same-day service, five (5) days shall be added to the time allowed by these rules for the filing of a responsive pleading or document.

#### B. <u>INFORMAL SETTLEMENT</u>

6. Whether or not Respondent requests a hearing, Respondent may

confer informally with EPA to discuss the alleged facts, violations and amount of the penalty. An informal conference does not, however, affect Respondent's obligation to file a written Answer within thirty (30) days of the Effective Date of the Complaint. The informal conference procedure may be pursued simultaneously with the adjudicatory hearing procedure.

- 7. In addition to the compliance schedule set forth in the Order above, any settlement reached as a result of an informal conference will be embodied in a written Consent Agreement and Final Order. The issuance of the Consent Agreement and Final Order will constitute waiver of Respondent's right to a hearing on any matter to which Respondent has stipulated.
- 8. If a settlement cannot be reached through an informal conference, the filing of a written Answer within thirty (30) days of the Effective Date of this Complaint will preserve Respondent's right to a hearing.
- 9. EPA encourages all parties against whom a penalty is proposed to explore the possibility of settlement. To request an informal conference, Respondent should contact Matt Strassberg, Assistant Regional Counsel, Office of Regional Counsel, at the above address, telephone number (415) 744-1370.

### EFFECTIVE DATE

The "Effective Date" of this Complaint is the date of Service. Service is complete when the return mail receipt is signed by the Respondent or a duly authorized representative of the Respondent, in accordance with the provisions of 40 C.F.R. §§ 22.5(b) and 22.7(c).

Date

Mulie Anderson

Director

Hazardous Waste Management Division

### CERTIFICATION OF SERVICE

I hereby certify that the original of the foregoing Determination of Violation, Compliance Order, and Notice of Right to Request a Hearing was filed with the Regional Hearing Clerk, Region IX, and that a copy was sent, along with a copy of 40 C.F.R. Part 22 Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits, certified mail, return receipt requested, to:

Terry L. Catlin Senior Manager Research/Technical Services Sunkist Growers, Inc. 760 East Sunkist Street Ontario, CA 91761

9/20/99

Date

Lou Tully

Low Zully

Waste Programs Division Region IX, United States Environmental Protection Agency



Sunkist Growers Processed Products P.O. Box 3720 Ontario, CA 91761-0993 Tel: (909) 983-9811

May 11, 2000

Regional Hearing Clerk (RC-1)
U.S. Environmental Protection Agency - Region IX
75 Hawthorne Street
San Francisco, CA 94105

\*\*\* Certified Return Receipt \*\*\*
Z 338 357 007

Frances Schultz (WST-3-1)
Waste Management Division
U.S. Environmental Protection Agency - Region IX
75 Hawthorne Street
San Francisco, CA 94105

\*\*\* Certified Return Receipt \*\*\*
Z.338.357.010

Subject: Sunkist Growers, Inc., Docket No. RCRA 09-99-0006

Dear Sir/Madam,

In partial compliance with the executed Consent Agreement and Final Order (CA/FO), the following information is supplied.

- 1. In accordance with Section D, Item 8A of the CA/FO, partial delivery of the purchased emergency response equipment was made on May 11, 2000. A copy of the letter certifying partial delivery is attached (see attachment A). Additionally, copies of the packing slips are also included in this attachment to demonstrate shipment and delivery dates. The remaining item (Kappler Responder Level A Vapor Protective Suits, XXL) are still currently backordered. An additional delivery certification will be made upon delivery of these items to the OFD.
- 2. In accordance with Section D, Item 8B of the CA/FO, written language, exactly as indicated, was added to the delivery certification letter (see attachment A) signed by the OFD representative to explicitly indicate the intent of the Supplemental Environmental Project (SEP). Additionally, a copy of the delivery certification was supplied to the OFD for their files.

Compliance Actions to Consent Agreement and Final Order (Docket No. RCRA 09-99-0006)
U.S. Environmental Protection Agency, Region IX
May 11, 2000
Page 2

3. In accordance with Section D, Item 8C of the CA/FO, compliance is pending. Upon receipt of the actual invoice to verify the total cost of the SEP, a letter certifying that expenditures for the SEP will not be deducted from Sunkist's taxes will be provided as required. The final invoice cannot be completed until shipment of the backordered items are made so that shipping costs can be included.

For additional information and/or further clarification, please contact Terry Catlin at (909)933-2264.

Sincerely,

Robert W. Eldridge

Director of Operations

/tc

attachments - Attachment A, Partial Delivery Certification, dated May 11, 2000

cc: O. Belletto, T. Catlin, T. Moore, K. Moyer, R. Peterson, W. Wells (cafolb.doc)

### ATTACHMENT A



May 11, 2000

City of Ontario Fire Department 425 East "B" Street Ontario, CA 91764-4194 Sunkist Growers Processed Products P.O. Box 3720 Ontario, CA 91761-0993 Tel: (909) 983-9811

Attention: Fred C. Nelsen, Fire Chief

Dear Chief Nelsen,

Your signature (or that of a designate) below certifies that the Ontario Fire Department (OFD) has taken partial delivery on the date indicated of the emergency response equipment specified by OFD and listed below. The equipment is listed as follows:

Item	Quantity	Quantity	Description
	Delivered	Ordered	
·	4 Each	4 Each	Kappler Level A Vapor Protective Suits, Size XL
2	Backordered	2 Each	Kappler Level A Vapor Protective Suits, Size XXL
. 3	5 Packages	5 Packages	3M Chemical Sorbent Mini-Booms (3 Gal./Boom @ 4/Pkg.)
4	1-Each	1-Each	Gastech GT 402 Series Kit.

"This project was undertaken in connection with a settlement agreement with the U.S.

Environmental Protection Agency"

Signature: Authorized OFD Representative (Print Name)

Date of Delivery



Picking Ticket \*\* CUSTOMER COPY \*\* INVOICE CONTROL #307023



ORDER NO: 00204071

SO

ORDERED BY:LAB SAFETY SUPPLY P.O. BOX 1368 **JANESVILLE** 

SHIP TO: TERRY CATLIN

SUNKIST GROWERS INC

616 E SUNKIST STREET

53547

ONTARIO

CA

JANESVILLE WI 53547

ONTARIO CA 91761 USA

WI

VIA - UPS UPS GROUND

DROP 12250

MESSAGES:

USA

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PAGE 1

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Signs & abe





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LAS SAFETY SUPPLY INC. PO BOX 1368 JAMESVILLE, WI U.S.A. 53547-1368 PHONE: (608) 764-2345 FAX: (608) 764 1806

SUMMIST GROWERS INC

SOLO PO BOX 7888

TO VAN NUYS

CA 91409-7886

ATTN: TBRRY CATLIN SHIPPED SUNKIST GROWERS INC

TO 616 E SUNKIST ST

ONTARIO

CA 91761-1721

WORK ORDER

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PACKING LIST

REQ:

BY: MILLER, IRENE

0000225827 (909) 983-9811

NOW YOUR OVERSEAS DIVISION CAN ORDER DIRECT! SAFETY FAX WORLDWIDE:

1-608-754-3937

These commodering are ricensed for the untimate destruction shower. Direction contrary to the United States law is prohibited. Quaterner hereby unconditionally and without representant agreed trust to Safety Gupply Inc. is entitled to enforce the terms of this shipping order under the laws of the state of Wisconsin and in a Wisconsin



October 8, 1999

Clint Seiter
Hazardous Waste Management Division
U. S. EPA Region IX
75 Hawthorne Street
San Francisco, CA 94105

\*\*\* Overnight Delivery \*\*\*

Sunkist Growers John V. Newman Research Center 760 E. Sunkist Street P.O. Box 3720 Ontario, CA 91761-1862 Tel: (909) 983-9811

Subject: WST-3-1 Sunkist Growers, Inc. CAD981412828

Dear Mr. Seiter,

In regards to the above mentioned subject matter, the following information, including enclosures, are submitted in partial fulfillment of the Compliance Order section. Specifically, item 6 requires that amendments be made to the company's Contingency Plan and that evidence of compliance be submitted to your attention within twenty (20) days of the Effective Date.

Required amendment (a) reads: "agreed arrangements with the local police department, fire department, hospitals, contractors, and State and local emergency response teams to coordinate emergency services".

In order to obtain clarification on how a company should satisfy the requirements of 22 CCR 66265.37, *Arrangements with Local Authorities*, a consultant solicited an opinion from the San Bernardino County Fire Department (SBCFD) regarding this matter. The guidance is specific for SBCFD or this Certified Unified Program Agency (CUPA). However, the state has allowed other CUPAs to do the same.

Reportedly, the opinion is that two copies of the Business/Contingency Plan are submitted to the local CUPA. One copy is sent by the CUPA to the local Fire Department who is responsible for responding to company incidents. This submission satisfies applicable 22 CCR requirements. No submission to the police, State Office of Emergency services (OES), or hospital is required. Additionally, it was mentioned that it would be prudent to identify in the Contingency Plan the name of the hazardous waste contractor who is available to respond to a company incident.

Submission of the Business/Contingency Plan was submitted to the SBCFD or CUPA in January 1998 as evidenced by attachment 1 and demonstrates compliance with 22 CCR 66265.37 as required in accordance with the above mentioned opinion.

Required amendment (b) reads: "a designation of the primary emergency coordinator, along with the emergency coordinator's telephone numbers and addresses".

Attachment 1 also indicates that emergency coordinators, including phone numbers and addresses, had been identified in the Business/Contingency Plan submission documents to the CUPA in January 1998. However, these individuals were not identified in the written Contingency Plan component of the Business Plan submission that was also supplied to the EPA during the inspection.

For clarification, the Business Plan required by the CUPA included not only the company's Contingency Plan but also the completed forms of attachment 1 and a hazardous material inventory (copies of MSDSs for hazardous materials at the facility and identification of specific hazardous components). Beside the two (2) copies supplied to the CUPA, copies were also supplied to the Environmental Group and Safety Office at Sunkist.

To improve the Contingency Plan and to address the agency's concern, specific identifications have been made for the emergency coordinators, including reassignments. A copy of the revised Contingency Plan is attachment 2. Please note the listing in the Call List, pp. 6-8. In a separate mailing or distribution, revised copies of the Contingency Plan have been submitted to the CUPA to maintain an updated file as required.

Required amendment (c) reads: "a list of all emergency equipment at the facility, including the location and physical description of each item on the list".

Please refer to pages 25-28 in the Contingency Plan regarding Emergency Equipment. Additionally, a map of the Fire response fixtures in the facility has also been included (attachment 3).

Every effort has been made to correct the deficiencies noted by your agency not only to comply with the regulations but also to go beyond what is required by law and fulfill our duty as good stewards to protect our employees, the environment and the surrounding community. If concerns still exist after reviewing this submission, please immediately notify us so that we may address those concerns promptly.

Sincerely,

Robert Eldridge

Director of Operations

- attachments excerpts from Business/Contingency Plan submission to CUPA in January 1998
  - copy of Contingency Plan revised October 10, 1999
  - Map, Fire Response Fixtures

SAN BERNARDINO COUNTY FIRE DEPARTMENT
HAZARDOUS MATERIALS DIVISION
385 NORTH ARROWHEAD AVENUE
SAN BERNARDINO, CA 92415-0153

98 JAN 30 PH 3: 2

### RECEIPT FOR BUSINESS PLANS

Name of Business:	Sunkist Drowers	S
Address:	616, 720, 760 E. Surkist St	
	Ortario 91761	
Number of Copies	3 Signature & Kosse	

1/30/98

DAT'E RECEIVED:

FOR DEPT. USE ONLY	
Date Received	
Date Approved	
Establishment Number	100 S 140 X

### SAN BERNARDINO COUNTY FIRE DEPARTMENT HAZARDOUS MATERIALS DIVISION 385 N. ARROWHEAD AVENUE SAN BERNARDINO, CA 92415-0153

### **BUSINESS EMERGENCY / CONTINGENCY PLAN**

### Section 1: GENERAL FACILITY INFORMATION

usiness Identification:			
Business Name: Sun	kist Growers		
Business Operator: Robe	rt Eldridge	Phone:	: ( <sup>909</sup> ) 983-9811
Federal ID #:	95 05	95	5000
Business Location:	616 E. Sunkist 720 E. Sunkist	Street,	760 E. Sunkist Stre
	number	street	suite
	Ontario	CA	91761
	city	state	zip
Mailing Address:	P O Box 3720		
	number	street	suite
	Ontario	CA	91761
	city	state	zip
Business Owner:	Sunkist_Grow		
Owner's Phone Number:	last name		title
Owner or none reamper.	(909 ) 983-9	811	
Parcel Number:	see attached	list	
Dun & Bradstreet #:	800-823-7	018	
Nature of Business:	Citrus Pr	rocessing	J.
		······································	
SIC Code:	2037		
¥	(4-digit code)		

DATE PREPARED:	January 1998	

See pages 1A - 8A for instructions on how to fill out this plan.

### Business Identification cont'd.

Total # of Emplo	yees onsite/shift: _	64/1 259/2	64/3 (a	s reported on y	our most r	ecent tax	withho	ding forms.)
Total # of emplo	yees onsite involve	d in the handling of	hazardous	s materials:	310	<u>(8</u> 0%	of	employee
Hours of Operati	ion: 24	hours/day'	-	-				
Number of unde	rground storage ta	nks located at this fo	acility:	six				
Extremely Hazai	rdous Substances and In threshold	are stored or handled are stored or handled are detected as a second continuous designs are detected as a seco		ио[]				
ls there a schoo	ol(s), hospital(s), or	extended care facil	lity(ies) with	nin 1,000 ft.	(straigh	t line di	istanc	e) of your fac
YES[] Provide	e name(s) and add	ress(es) of site(s):						
Name	-	Num	nber	Street				_
Name	· · · · · · · · · · · · · · · · · · ·	Nun	nber	Stree	t			<u> </u>
Name		Nun	nber	Stree	et			_
Does this facilit	ty have a laboratory	y on site? NO[]	, ř	ř				
	a general descripti hazardous materia	•	and a brie	of description	of the	type(s)		
Fruit Sc	ciences Lab	- compressed	gases	and les	s th	an l	lb·	- 5 lbs
		of hazardo	ous mat	erial us	sed p	rimar	ily	
		for testir	ng.					
Researc	h Lab - comp	oressed, acid	ls, ana	lytical	reag	ents	use	d for
		lytical test						
Quality	Control Lal	o - acids us	ed for	testing				



release of a hazardous material to: (\*indicates mandatory agency notification) Phone Number Agency Local Emergency Response Agency 911 (Contact first, but only in event of emergency situation) (800) 33-TOXIC or \*2. Administering Agency: San Bernardino County Fire Department Hazardous Materials Division (909) 387-3044 (800) 852-7550 or **\***3. State of California, Office of Emergency Services (916) 262-1621 (800) 424-8802 National Response Center 4. (Federal notification for spills of hazardous substance exceeding reportable quantity) Other Agencies (Cal OSHA, Regional Board, Air Quality, as applicable) 5. Phone Number Name Name Name 6. Emergency Response Team (employees or contracted personnel, if applicable) Floyd Buckley- Sunkist Plant Safety Name Office Security Officer- Sunkist Plant Security Phone Number Name Name **EMERGENCY INFORMATION REQUIRED:** Name & phone number of person reporting Estimate of the quantity released Media (soil, water, air) into which release occurred Name and street address of the business Location of the incident or threatened release Precautions to take (if known) Time and duration of the release Type of incident or threatened release Hazardous materials involved & physical state Is the chemical an extremely hazardous substance? Hazards to human health and/or environment Extent of injuries, if any Jan. 1998

Page 4

idler of hazardous materials is required to immediately report any release or threatened

Agency Notification: A

DATE PREPARED:

Section II: Emergency ponse Plans and Procedures

State Law requires your business to complete all sections of the Emergency Response Procedure listed below:

For each of the following, briefly describe your business standard operating procedures relating to the release threatened release of hazardous materials located at your facility.

EMPLOYEE EVACUATION/NOTIFICATION: Indicate location(s) where employees are to evacuate in an emergency. Describe how your business will immediately notify employees and evacuate your facility in the event of a release or threatened release of hazardous materials..

See pages 15 through 18 of Written Plan.

PREVENTION/MITIGATION/ABATEMENT: Describe what policies and procedures your business will follow to prevent, reduce and/or remove the hazard to persons, property or the environment caused by a release or threatened release of hazardous materials.

See pages 19-21 of Written Plan.

DATE PREPARED: Jan 1998 Page 5

FACILITY TRAINING PLAN: Describe employee training procedures for local emergency response coordination, use of facility emergency equipment, and provisions for initial and refresher training. In addition, describe training for hazardous materials/waste handling as required by OSHA.

See page 11 of Written Plan.

**EMERGENCY PROCEDURES:** Give duties of the Emergency Coordinator and how implementation of Facility Emergency Response will be accomplished.

See pages 9 and 10 of Written Plan

DATE PREPARED: Jan. 1998 Page 6

FACILITY EMERG. SY EQUIPMENT: List facility emergency equipment on site (fire extinguisher, fire alarms, spill control equip., SCBA, first aid kits, etc.); include test/maintenance plan.

For	Refer <b>t</b> o page of Witten Pla <b>n</b>			
-				
Fire Extinguishers	22			
Fire HOses	22			
Transportation	23			
Emergency Response Equipment	23			

FACILITY EARTHQUAKE RESPONSE Identify areas of the facility and mechanical or other systems that require immediate inspection because of their vulnerability to earthquake related ground motion.

Refrigeration System in Plant
Steam lines in plant
Emergency Kill switches in: Extractor Area
Tank farm
Gas line to laboratories

ARRANGEMENTS/AGREEMENTS: Describe any arrangements or agreements that you have with private emergency response teams, waste haulers, disposal companies, recyclers, local hospitals, police or fire. If you have no arrangements or agreements, state that fact in the space provided.

No arrangements with private emergency response teams have been made.

DATE PREPARED:	Jan. 1998	Page 7

THIS FORM MUST BE SUBM	ED WITH YOUR BUSIN	ESS EMERGENC	JONTINGEN	ICY PLAN.	
BUSINESS NAME:					
BUSINESS ADDRESS:	616, 720 and 7	60 E. Sunkist	Street	Ontario, CA	91761
I DECLARE UNDER PENA EMERGENCY/CONTINGENCY INFORMATION PROVIDED IN T THE BEST OF MY KNOWLEDG	PLAN AND UNDERSTA THIS AND ALL ATTACH	ND MY RESPONSI	BILITIES; A	ND THAT THE	
1 sic MM	infi		//30/9	<del>98</del>	
SIGNATURE OF OWNER/OPER	RATOR	DAT	ΓE		
Robert Eldri	.dge	D:	irector o	of Operations	
PRINT NAME OF OWNER/OPE	RATOR	TIT	LE		
BUSINESS PLAN					
PREPARED BY: (please print) Terry (	Catlin				
phone number of a person to whe Kathie Blyskal Name:		MSDSs may be additional (909) 933-22 Business Phone Number	92		
A COPY OF THIS PLAN MUST	BE RETAINED AT YOU	JR FACILITY	Ņ.	÷	
Final Checklist ( ✓)					
<ul> <li>Completed emerg</li> </ul>	al facility information (pp. 3	3-4)			
<ul><li>Completed Emergence</li><li>Completed an investment</li></ul>	gency Response Plans a rentory summary for the		5-7)	ई के . इ.स.	
<ul> <li>Completed one in</li> <li>Attached a Mater</li> <li>Assigned an item</li> <li>Provided 3 maps</li> </ul>	nventory form for each hat ial Safety Data Sheet to number to each invento	azardous material or the inventory form of	each materia	al not listed in Append	
<ul><li>facilit</li><li>site r</li></ul>	y map (using grid form p nap (using grid form prov map (photocopied city m	rided)	te indicated)		
<ul> <li>Owner/Operator</li> <li>Submit the appropriate copies if the factor</li> </ul>	has signed and dated the opriate number of plans fallity is physically located in	e plan. to the Hazardous Mat n the incorporated cit	erials Division by of Fontana,	n - the original and 2 , the original and one	copy if
the facility is loc	ated in any other city or i	n an unincorporated	area.		, •
DATE PREPARED: Janua	ry 1998	Page 8	•		





# SUKNIST GROWERS Emergency Response Plan

Ontario Facility

October 10, 1999

	Operations /	Marketing /	Technical	Safety
Approvals:	1 ME Mul	1///	luvous	Maritans.
	10/8/11	10/8/84	10/8/1989	10/8/17/



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### I. BUSINESS LOCATIONS

Sunkist Growers, Inc. Ontario Facility (909) 983-9811

#### **Processed Products Division**

616 East Sunkist Street, Ontario, CA 91761 720 East Sunkist Street, Ontario, CA 91761

### Research & Technical Services Division

760 East Sunkist Street, Ontario, CA 91761

#### **BUSINESS DESCRIPTION**

Sunkist Growers Inc. is a membership cooperative marketing association representing citrus growers with orchards in California and Arizona.

The Ontario, California location is comprised of a citrus juice processing plant (Processed Products Division) and the Research & Technical Services Division, owned by Sunkist Growers, Inc. The Ontario facility employs an average of 400 people involved in production, dry, refrigerated and freezer warehousing, accounting, sales, juice and equipment manufacturing and technical services. There are approximately 64 people scheduled for shift 1(12M - 8 am), 259 people per shift on shift 2 (8 am-4 pm), and 64 people on shift 3 (4 pm-12M).

STANDARD INDUSTRIAL CLASSIFICATION CODE

2037

**DUNN AND BRADSTREET** 

800-823-7018



### II. KEY PERSONNEL

Key personnel may need to be contacted during an emergency. These persons may have special knowledge that would be helpful during an emergency incident. They are selected by management and a Call List with their names and phone numbers are maintained by the Safety Office and the Personnel Office.

This Call List of Key Personnel and their alternates with their home telephone numbers will be kept in the Emergency Control Center, Security Office, Personnel Office and with Call List personnel. The Safety Office and Personnel Office will update the Call List as to names and telephone numbers every six months or sooner if necessary because of changes. This updated Call List will be sent to Call List Personnel. This Call List is otherwise confidential.









### PRIMARY DISASTER CONTACTS

### LOCAL EMERGENCY SERVICES

Police 911 or (909)986-6711

Fire 911 or (909)983-5911

San Antonio Community Hospital (909)985-2811

Ambulance (909)983-6943

Paramedics 911 or 983-9643

Red Cross - Ontario (909)986-6651

Coroner's Office (909)387-2978

San Bernardino County

California Highway Patrol 911 or (909)984-1241

### ADDITIONAL PHONE NUMBERS TO BE USED BY THE EC

San Bernardino County Fire Department (800)338-6942 (Actual or threatened hazardous material release) or (909)387-4631

State Office of Emergency Services (800)852-7550 or

(916)262-1621

National Response Center 800-424-8802

(Hazardous material release over reported quantity)

Sunkist Plant Safety Office 2502

Sunkist Plant Security 2541

Sunkist Emergency Number 2541



### IV. EMERGENCY RESPONSE PROCEDURES

#### A. INTRODUCTION

In an effort to minimize potential dangers to employees and/or harm to the environment if an emergency incident should occur, the Sunkist Ontario Facility will implement an emergency response program.

It is the purpose of this plan to establish responsibilities, describe procedures and provide instruction for implementation of the program.

### B. CONCEPT:

### 1. MANAGEMENT GROUP

The Management Group will report to Senior Management of Sunkist Growers, Inc., in Ontario and Sherman Oaks.

The Management Group will be in charge during and immediately following activation of the major emergency plan.

They will assure that the Emergency Response Team members know and fully understand their individual responsibilities during an emergency incident.

In the event of a major emergency, the line of authority (depending on attendance and the time of day) will be as follows:

Director of Plant Operations
Plant Manager (**Primary Emergency Coordinator**)
Plant Engineer (**Secondary Emergency Coordinator**)
Fruit Processing Manager (**Tertiary Emergency Coordinator**)
Environmental Services Manager
Night Superintendent
Hourly Relief Foreman (night shifts and weekends)

The designated EMERGENCY COORDINATOR (EC) will have the authority to declare an emergency situation and to take appropriate action. This individual will be in charge of the Emergency Control Center (ECC).



### 2. EMERGENCY CONTROL CENTER (ECC)

The location of the "ECC" will be established by the Emergency Coordinator.

It is recommended that the ECC be mobile. Ideally, a van equipped with two radios (one on maintenance and production frequencies), a cellular phone for external communication, and a beeper should be available.

Members of the ECC and their designates will wear distinctively marked vests during an emergency. Members of the ECC will coordinate with police, fire and other outside agencies.

### 3. EMERGENCY COORDINATOR (EC)

The EC holds overall responsibility and accountability for employees, machinery and all other resources at the facilities.

The EC has the authority to declare an emergency situation.

The EC is in charge of the Emergency Control Center (ECC).

The EC insures that notice of evacuation has been initiated, if needed.

The EC receives reports from the area coordinators, security and maintenance personnel and takes necessary actions.

The EC is responsible for designating employee evacuation areas.

The EC contacts and coordinates both internal and external (medical, security, police, fire, paramedics and American Red Cross & other outside agencies) emergency response teams.

The EC (or designate) will report all actual or threatened releases of hazardous materials to the proper governmental agencies.

#### 4. SECURITY

Security will manage vehicular traffic.

The Security Officer will remain in or near the guard house for access to the ECC. Security will remain in radio contact with the ECC via the maintenance frequency.

If the position is compromised, the Security Officer will remain as close as practical to the Security Office.

Additional personnel will be assigned to Security by the ECC as needed. Security personnel and any assistants will be identified by florescent international orange vests.

#### 5. MAINTENANCE

Maintenance and refrigeration personnel will be responsible for shutting off utilities.

They will coordinate debris removal and, if possible, repairs.

Maintenance will be liaison with Co-Generation.

### 6. AREA COORDINATORS

There will be an Assistant Coordinator in each work area who will report to the area Coordinator and carry out his instructions.

Shutdown procedures for hazardous or vital functions will be developed and directed as needed by the Area Coordinator.

The Area Coordinator will be responsible for communication to the ECC for the following:

Reporting an emergency or hazardous condition Carrying out the instructions and recommendations of the ECC Reporting the action taken Controlling the evacuation if so ordered by the ECC.

The ECC and Area Coordinator will remain in contact with each other either by the Production or Maintenance radio frequencies. If an area does not have radio communication capability, these areas and the ECC will use messengers.



The ECC's orders will be relayed through the Area Coordinator to their assistants. The assistants will instruct the personnel in their area. All personnel are to follow their Area Coordinator's and/or Assistant Coordinator's instructions only.

If a work area is to be evacuated, the Assistant Coordinator will control his group to effect an orderly evacuation. Attendance will be taken by the Assistant Coordinator and reported to the Area Coordinator.

If there are injured personnel in the Area Coordinator's area he will so notify the ECC. The ECC will then take appropriate action.

### 7. RESPONSE TEAM

A group of trained personnel will report to the designated area and facilitate care of any injured.

Aid will be established to care for as many people as possible in the quickest way using Red Cross First Aid and CPR methods. Employees will be grouped according to condition.

A foreman or lead person certified in First Aid and CPR will be assigned to direct this area until paramedics arrive or emergency medical systems (EMS) respondants arrive at the scene.

#### 8. TRAINING PROGRAM FOR EMPLOYEES

All employees will have initial training and yearly updates for dealing with the special hazards and safe handling practices of each of the hazardous materials in their work area.

All employees will have initial training including their responsibilities and yearly reviews in emergency response procedures. This training will include understanding the written Emergency Response Plan and actual emergency drills.

All emergency response personnel will receive initial training and yearly reviews for the proper handling of an emergency situation, reporting procedures and their responsibilities during an emergency incident.

Selected personnel will have training and biennial reviews for First Aid, CPR, and Fire Extinguisher performance. Self-contained breathing apparatus (SCBA) training is annual.



Management will be responsible for assuring employees are trained as directed in the Hazard Communication Plan, the Emergency Response Plan and the Safety Program.

The Safety Program includes various training in methods of safe operation and inspection of machines and equipment in an employee's department, vessel entry and other specialized procedures, check lists and the use of emergency response equipment.

### C. EMERGENCY RESPONSE OPERATION

#### 1. PREPARATION FOR AN EMERGENCY

The Employees --

Will know who the Coordinators are for their area.

Will be familiar with emergency procedures, exit routes and evacuation assembly areas for their work area.

The Supervisors, Foremen or Leads --

Are to be familiar with floor arrangements, number of occupants and location of exits in their area.

Are to identify any handicapped employees in their area and make arrangements for their safe removal in an emergency.

Are to insure maintenance of all equipment including: lighting system, emergency lighting system, ventilation controls, communications, etc.

Are to review the Emergency Plan with all employees:

- 1. when an employee starts working in the area;
- 2. when changes are made to the plan or to the employee's responsibilities; and
- 3. at least annually.



### Department Supervisors

Will formulate and maintain the safest exit route (with alternates if possible) avoiding hazardous materials and conditions in the areas.

Will post a floor plan showing the exit routes in the work area.

Will notify the Safety Department and Engineering when these plans should be updated.

#### 2. MINOR EMERGENCY

The Employees ---

Will notify their Area Coordinator or Emergency Coordinator of any potentially dangerous emergency situation which they have become aware.

The Supervisors, Foremen or Leads --

Will contact the Maintenance Department if there is a break in a major line (water, steam, ammonia or gas) and it is a localized emergency.

#### 3. MAJOR EMERGENCY

If the following situations occur, the emergency will be considered major and the ECC will be activated.

- 1. Two or more employees injured or their safety at risk.
- 2. Major structural damage (i.e. support column failure, roof caving in, etc.)
- 3. Threatened or actual release of a hazardous substance.

The actions necessary in any emergency will clearly depend upon the surrounding circumstances.

The Employees --

Will follow the instructions of the Area and Assistant Coordinator.

Will check in with Assistant Coordinator in the Designated Evacuation Area. After checking in, employees are to stay in that Designated Area unless otherwise directed by a Coordinator.



The Area Coordinator and Assistant Coordinator -

Will receive directions from the ECC and will advise all employees and visitors of any emergency situation and what action is to be taken.

Will work with Maintenance and Production Departments to coordinate shut down procedures with the ECC in an emergency.

If an evacuation is ordered by the ECC, the Coordinators will assure that the appropriate evacuation route is followed.

After reaching the evacuation assembly area, the Assistant Coordinator will make a head count and report to the area Coordinator any unaccounted employees or visitors.

The ECC Members --

Will be responsible for all items discussed under "Emergency Coordinator".

Will contact other key personnel as needed.

Will request personnel from each available Evacuation area as needed to facilitate an orderly emergency control.



### 4. METHODS OF REPORTING FIRES & HAZARDOUS MATERIAL RELEASES

### FIRES:

If a fire is localized in the judgment of an employee "who has been trained" in the use of fire fighting equipment, an attempt should be made to extinguish the fire. Report the fire and use of equipment to immediate supervisor, even if fire is extinguished.

If an employee discovering a fire decides that the situation is beyond control, that employee will pull the nearest fire alarm and notify his/her supervisor(s) or manager.

If you cannot notify your supervisor(s) or manager call the Emergency Number - Ext. 2541.

Security will contact the Fire Department. If an employee can't contact security 9-911 should be called from any phone.

Coordinators will report all fires to the Maintenance Department during the second shift or to Security on the first and third shift.

Security will notify Maintenance at all times of fires and fire alarms which have been activated.

#### **HAZARDOUS MATERIAL RELEASES:**

All actual hazardous material releases will be reported IMMEDIATELY to the Foremen and/or EC.

All threatened hazardous material releases will be reported IMMEDIATELY to the Foremen and/or EC.

All actual and threatened releases of hazardous materials will be reported IMMEDIATELY to the EC by the Foremen.

The EC OR DESIGNATE will IMMEDIATELY report all actual and threatened releases of hazardous materials to the proper governmental agency.

All hazardous material releases will be reported to the Maintenance Department.

The Safety Department will be notified by the Supervisor of any chemical release or fire.



The EC or designate will follow the Hazardous Materials Release Protocol for any actual or threatened releases of a hazardous substance.

### 5. EVACUATION/RELOCATION PROCEDURES

The following procedures are to be followed IMMEDIATELY when an alarm is sounded or the ECC has notified the Area Coordinators that an emergency exists. LISTEN to instructions. Evacuate only if instructed to do so by your Area Coordinator.

In an immediately dangerous to life situation, any employee can determine if the area should be evacuated, then the Department Supervisor will notify the ECC.

- 1. Walk to the exit designated for the department you are in at that time. Use the alternate exit if the primary exit is blocked or instructed to do so by a Coordinator.
- 2. Take nothing with you--personal belongings, cigarettes--as you exit. Time taken to collect personal items may be the difference in getting out safely or not. When it is safe to return to work or to collect personal items, you will be advised.
- 3. Walk -- do not run. Do not use elevators unless directed to do so by the Fire Department.
- 4. Go down stairways as quickly as possible but do not rush or shove past others.
- 5. People needing wheelchair or crutches will be carried to the evacuation area by assigned personnel.
- 6. Comply with the Area Coordinator's instructions completely.
- 7. Do Not Smoke! Assure all ignition sources are extinguished (welding torches, smoking materials, etc.) when evacuation notice is given.
- 8. When you have reached the street level, immediately proceed to the evacuation area designated for that department. Stay in this area until the Area Coordinator advises that it is safe to return to the building or if further evacuation is necessary.
- 9. Remain calm. Do not panic. Listen for instructions. Avoid any unnecessary conversation.



#### 6. EVACUATION AREAS

The EVACUATION AREA is a safe waiting area away from danger inside or outside a building. The designated Evacuation Areas are shown on the map titled *Designated Evacuation Areas* in case it is necessary to evacuate one or all of the Products Group buildings.

All floors of a building(s) will be evacuated as directed by the ECC.

If it is determined that general evacuation should take place the ECC will order it and inform the Area Coordinators. The Area Coordinators will be informed as to what degree an evacuation should take place and if there are any conditions that would affect an evacuation.

The Area Coordinators and their Assistants will inform the employees:

- 1. That an evacuation of the area is necessary.
- 2. That the employees should evacuate to one of their Designated Evacuation Areas.
- 3. That an emergency exists in one of the designated areas and it is necessary to go to an alternate area.
- 4. Upon reaching the Evacuation Area each employee will check in with the Area Coordinator in order to be sure each person has arrived safely.

#### 7. ACCOUNTING FOR EMPLOYEES

The Assistant Coordinator will be responsible for:

- a) Accounting of all employees on his/her crew.
- b) Identification of employees from other departments that are in the Designated Evacuation Area.
- c) Identification of any visitors in the Designated Evacuation Area.



The Assistant will report to the Area Coordinator:

- a) The number of his/her employees.
- b) The names of any visitors in the Designated Evacuation Area.
- c) The names of any employees in the Assistant's department that did not report to the Designated Evacuation Area.
- d) Any injuries of employees and visitors.

#### The Area Coordinator will report to the ECC:

- a) The names of any unaccounted employees.
- b) The names of visitors and employees of other departments and where they normally work and copies of the visitors sign-in log.
- c) The extent of injured personnel.

#### The ECC will determine:

- a) If an individual missing from an area has been located in another Designated Evacuation Area if the person may still be in an evacuated area.
- b) If necessary, the ECC will determine who will search for any unaccounted personnel.

#### Injured Personnel:

- a) If trained personnel have determined that an injured person can be moved, he/she will be taken to the assigned Triage area.
- b) If an Area Coordinator is of the opinion that an injured person cannot be moved, the ECC will be notified and appropriate action will be taken.
- c) The Medical Team or Paramedic <u>must notify</u> the Area Coordinator if an injured person is taken to a medical facility.
- d) The area Coordinator must keep a list of injured personnel taken to a hospital.



#### 8. WARNING SYSTEMS

#### **RADIOS**

Radios used by Production, Maintenance and Distribution will be the main source of communication during an emergency between the ECC and the affected departments.

#### TELEPHONE

#### **EMERGENCY NUMBER -- EXTENSION 2541**

This extension is in the Security Office. An employee will use this number if the department supervisor(s) or manager cannot be reached.

The telephone system is not to be used for non-emergency calls during an incident. Incoming calls will be screened.

#### FIRE

The Central Fire alarm system is located adjacent to the First Aid Station. All incoming alarms shall be responded to immediately and the appropriate personnel notified.

All fire alarm boxes and fire hydrants shall be kept clear of blockage and be easily accessible to emergency response teams. (see map for locations)

#### **PUBLIC ADDRESS SYSTEM**

Available for use 7:30 am to 4:15 pm, Monday through Friday.

There are three PA systems that can be reached directly by phone:

Main Plant Extension 2300 (Personnel) R&D Extension 89

PSD Extension 88
Can Plant Extension 86



#### 13. UPDATING THE PLAN

The Emergency Plan will be updated by the Safety Officer as often as required to keep the plan current.

Updates will be distributed to:

Vice President – RTS & Processed Products Divisions Directors Department Managers Supervisors

It will be the responsibility of those holding copies of the Emergency Plan Manual to file updates.

The Call List will be updated whenever necessary.



#### III. APPENDICES

#### A. EMERGENCY EQUIPMENT

Emergency equipment must be readily available and well protected so it is reliable. It should be checked, inspected and cleaned on a regular basis.

Various departments have on hand equipment that could be used in an emergency such as wet gear, various types of gloves, and respirators. General Stores, the name given to Sunkist's in-house supply, also have some of this equipment available.

The following pages lists various types of equipment available for an emergency.

#### 1. FIRE EXTINGUISHER LOCATIONS

Bldg. No.	Description	Units	Type
12	Administration	18	ABC
14, 15	Old Pectin Bldg., Old Perma-Stabil Bldg.	21	ABC
16	PSD	9	ABC Halon 1
17	Research Center	11,10	ABC,BC
13, 29, 32	Guard House 44,33	26	ABC
21	Oil Processing	20	ABC
23	Machine Shop	29	ABC
31	Leasee Manufacturing, QC Laboratory	27	ABC 4-CO2
68, 37	Construction, PSD, Tank Farm	36	ABC
40	LP Tank, 42,11 - Warehouse, 74	25	ABC,1-CO2
52,53,61,6 2,PS,BS		28	ABC, 1-CO2
54,64	Lemon Processing, Can Plant	21	ABC, 3-CO2
	Project Engineering	3	ABC 10-CO2



ABSORBEE (Building 14, 1st floor)	>800 pounds
RESPIRATORS	
Masks for Ammonia - S, M, L (see Attached Location List next page)	22
Disposable Canisters for Masks (Stockroom, Building 23)	70
Paint/spray pesticide canisters disposable (Stockroom, Building 23)	24
Kits complete for refrigeration maintenance (Stockroom, Building 23)	4
SCBA GEAR (Portable disaster Cart)	4
GAS DETECTORS (2-Maintenance, 2-Safety)	4
SAFETY HARNESSES (Stockroom, Building 23)	4
ESCAPE AIR PACKS Quality Control Lab (Pending)	2



#### **Ammonia Gas Mask Location List**

Building No.	Description	Mask Units
1	East Door into compressor room, northwest wall by hydraulic cage,	3
	& northwest wall by restroom	
Emergency Trailer	Trailer parked by water tower	2
11	1st Floor landing of stairwell	1
14	Security Office	1
15	Outside southwest wall	1
29	Outside north wall	1
31	Ground floor landing of stairway, inside 2nd floor by south stairway,	3
	& inside 3rd floor by south stairway	
32	Landing between B29 and B32	1
53	By door into extraction pulp tank room	1
54	Main compressor room office door, east wall main compressor room	5
	by #4FES, west wall tropicana compressor room, & southwest corner	
	main compressor room	
61	East wall by outside tropicana tube chiller	1
73	By outside compressor	1
74	Outside ammonia nump room	1

### Hazardous Material Release - keport Form

Name of Caller:			Date:		
Departn	nent:		Time:		_a.m. p.m.
	f Supervisor:				
	on of Hazardous Material Spill or Release.  Street Address:  Building Location:  Specific Site in Building:				
	of Hazardous Material: it of Spill or Release:			gallons	cu. ft.
Type of Date of	Hazard (circle one): Flammable  f Release:  ary of Release (Explanation):	Corrosive Time of	Toxic Release:	Gas a	.m. p.m.
Agenc	SB County Fire Department (800)338-6942 or (909)387-4631	d in Bold ( <rq)< td=""><td></td><td>FTER REI</td><td>LEASE</td></rq)<>		FTER REI	LEASE
	Office of Emergency Services (OES) (800)852-7550 or (916)262-1621	Contact Name:			
	SC Air Quality Mgmt. Dist. (SCAQMD) (800)288-7664 selection 2, then 3	Contact Name:			
	National Response Center (>RQ or unknown)) (800)424-8802	Contact Name:	(OES Form Also F	Required)	
	Police or Local Fire Department 911	Contact Name:			
	Cal-OSHA (Injuries) (800)321-OSHA or (909)383-4321	Contact Name:			
	Department of Toxic Substances (916)323-3600	Contact Name:			
	Regional Water Quality Control Board (909)320-2027	Contact Name:			

### EMERGENCY RELEASE FOLLOW - UP NOTICE REPORTING FORM

А	BUSINESS NAME FACILITY EMERGENCY CONTACT & PHONE NUMBER ( ) -		
В	INCIDENT MO DAY YR TIME OES  DATIE           (use 24 hr time)   CONTROL NO.		
С	INCIDENT ADDRESS LOCATION CITY/COMMUNITY COUNTY ZIP		
	CHEMICAL OR TRADE NAME (print or type)  CAS Number		
D	CHECK IF CHEMICAL IS LISTED IN  40 CFR 355, APPENDIX A  CHECK IF RELEASE REQUIRES NOTIFI - CATION UNDER 42 U.S.C. Section 9603 (a)		
	PHYSICAL STATE CONTAINED PHYSICAL STATE RELEASED QUANTITY RELEASED SOLID LIQUID GAS		
	ENVIRONMENTAL CONTAMINATION  TIME OF RELEASE  DURATION OF RELEASE  DAYSHOURSMINUTES		
$\overline{\bigcap}$	ACTIONS TAKEN		
E			
	KNOWN OR ANTICIPATED HEALTH EFFECTS (Use the comments section for addition information)  ACUTE OR IMMEDIATE (explain)		
F	CHRONIC OR DELAYED (explain)		
	NOT KNOWN (explain)		
	ADVICE REGARDING MEDICAL ATTENTION NECESSARY FOR EXPOSED INDIVIDUALS		
G			
	COMMENTS (INDICATE SECTION (A - G) AND ITEM WITH COMMENTS OR ADDITIONAL INFORMATION)		
Н			
	CERTIFICATION: I certify under penalty of law that I have personally examined and I am familiar with the information submitted and believe the submitted information is true, accurate, and complete.  REPORTING FACILITY REPRESENTATIVE (print or type)		
	SIGNATURE OF REPORTING FACILITY REPRESENTATIVE DATE:		



#### AMMONIA RELEASE PROTOCOL

FOR ANY ACTUAL RELEASE OR THREATENED (POTENTIAL) RELEASE OF AMMONIA, any employee, authorized representatives, or handlers must IMMEDIATELY notify the agencies outlined in this protocol.

#### SPECIFICALLY IF THERE IS ANY RELEASE THAT AN EMPLOYEE:

Has to evacuate employees or customers

Has to implement an emergency plan

Has to use a water spray to knock down an ammonia cloud or fumes or odor

Has to put on a respirator

Has to use supplied air

Enters a leaking ammonia area and the employee's eyes tear or burn

Enters a leaking ammonia area and the employee's throat burns or is hoarse at a later time

Finds product is damaged

Can not capture the release before it enters the environment

Has been exposed above the Occupational Exposure Limit of 35 ppm for 15 minutes (or 25 ppm for 8 hours)

#### IMMEDIATELY notify the following agencies:

San Bernardino County Fire Department (CUPA)	800-338-6942 OR 909-387-4631
AND Office of Emergency Services Warning Center (OES)	800-852-7550 OR 916-262-1621
AND South Coast Air Management District (SCAMD)	800-288-7664 selection 2, then 3

#### AND

The Local Emergency Response Agency (Either the Police 911 or Local Fire Department 911) if you need police to block off streets, or you need the fire department to help spray down fumes.

The following information should be communicated with the initial phone report of a release or threatened release:

- The exact location of the release or threatened release
- The name of the reporter
- The hazardous material involved
- An estimate of the quantity of material released
- If known, the potential hazards posed by the hazardous material

The Hazardous Material Release - Report Form should be completed containing the above mentioned information and include contact names and any document numbers supplied by the person responding to the notification.



### AMMONIA RELEASE PROTOCOL, Continued

IN ADDITION, IF THE RELEASE IS GREATER THAN 100 LBS OR 17.5 GALLONS (>RQ or unknown quantity)

**Also Notify** 

National Response Center

800-424-8802

and

Cal-OSHA (for Harmful Exposures to Workers or Serious Injuries)

800-321-OSHA or 909-383-4321

and IF THERE IS A RELEASE FROM A SECONDARY CONTAINMENT:

**Department of Toxic Substances** 

916-323-3600

(emergency response for secondary containment releases)

and IF THERE ARE DISCHARGES OR PROPOSED DISCHARGES THAT THREATEN OR MAY IMPACT WATER QUALITY (INCLUDES GROUND AND SURFACE WATER AND STORM WATER DRAINS)

**Regional Water Quality Control Board** 

909-320-2027

A written follow-up is required on a form specified by **OES** (Form 304) [19 CCR Section 2705] if the release exceeds the Reportable Quantity (RQ of 100 lbs for ammonia, 40 CFR Section 302.4 and 355.40). The form must be submitted as soon as possible, but no later than 30 days, to the local administering agency (**CUPA**) and the **OES** in Sacramento. Rancho Cordova is a suburb of Sacramento.

#### **CUPA**

County Fire Department
Hazardous Materials Division
385 North Arrowhead Avenue, 2<sup>nd</sup> Floor
San Bernardino, CA 92415-0153
Attn.: OES 304 Reporting

Wayne Williams (909)387-3080 (909)387-4323

#### OES

Office of Emergency Services Hazardous Materials Unit P.O. Box 419047 Rancho Cordova, CA 95741-9047 Attn: 304 Reporting

Diana Cossart (916)464-3283 (916)464-3205 fax



## REPORTABLE QUANTITIES OF HAZARDOUS SUBSTANCES ONTARIO FACILITY

Substance	Reportable Quantity (RQ in lbs.)
Acetic Acid	1,000
Ammonia	100
Chlorine	10
Diazinon	1
Hydrochloric Acid	5,000
Nitric Acid	1,000
Phosphoric Acid	5,000
Sodium Bisulfite	5,000
Sodium Hydroxide	1,000
Sodium Hypochlorite	100
Sulfuric Acid	1,000

#### D. DEFINITION OF TERMS

#### AREA COORDINATOR:

Person from each department or building area will be designated as Area Coordinator

The Area Coordinator will be the Department Manager, Supervisor, Foreman or lead person depending on work shift, attendance and area.

This person will be responsible for communication with the ECC and employees.

#### ASSISTANT COORDINATOR:

Person designated from each work area, floor or department, and will assist the Area Coordinator in case of emergency.

Foremen and/or leads will be assigned to be assistants by the department..

#### "EC" -- EMERGENCY COORDINATOR:

Activated by Management when needed to be the control point during an emergency. The ECC will coordinate internal (medical, security, maintenance) and with external (police, fire, paramedics) emergency teams.

#### EMERGENCY NUMBER:

Extension 2541 (Security will answer)

#### **EMERGENCY RESPONSE TEAM:**

Employees of Sunkist Processed Products Division trained in emergency response.

#### **EVACUATION ASSEMBLY AREA:**

A safe assembly and waiting area away from danger for employees.

#### EXIT:

Nearest and/or safety path to evacuate a work area.

#### FIRST AID AREA:

The area designated by the ECC for injured employees to be taken for medical attention.

#### D. DEFINITION OF TERMS (CONTINUED)

#### FLOOR PLAN:

Drawing of a work area/building showing nearest exits

#### HAZARDOUS MATERIAL:

Any material that, because of it's quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment.

#### **KEY PERSONNEL:**

Names of employees to be called in case of an emergency at the plant. See Call List.

#### **MAINTENANCE:**

Is the department that is in charge of shutting off utilities. They will assist the ECC as necessary.

#### MANPOWER:

Those employees in the Evacuation Assembly Area who will be assigned tasks to facilitate an orderly emergency.

#### MEDICAL TEAM:

Employees trained in First Aid, CPR and who will assist the injured.

#### RELEASE:

Any spills, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment, unless permitted or permitted or authorized by a regulatory agency.

#### SECURITY:

Is the department that will assist the ECC as necessary in controlling the emergency.

#### SHUT DOWN PRODUCERS:

Orderly plan for turning off hazardous or vital functions as necessary.

#### THREATENED RELEASE:

Condition creating a potential for a release, when the probability and potential extent of harm make it reasonably necessary to take immediate action to prevent, reduce or mitigate the release. Releases as a result of repairs are potential releases prior to the repair being made.

#### E. SUNKIST PROPERTY PARCEL NUMBERS

#### PARCEL NUMBERS:

1049-201-080000

1049-201-280000

1049-202-010000

1049-202-030000

1049-202-040000

1049-202-050000

1049-202-060000

1049-202-070000

1049-202-160000

1049-202-170000

1049-202-180000

1049-202-190000

1049-202-200000

1049-211-010000

1049-211-040000

1049-211-050000

1049-211-051000 1049-211-060000

1049-221-040000 1049-221-120000

1049-221-130000

1049-221-140000

1049-232-210000

1049-281-040000

1049-352-010000

1049-354-040000

1049-354-060000

#### RESEARCH CENTER:

1049-211-030000

1049-211-031000

#### MAIN PLANT

1049-221-010000

1049-221-011001

#### **MAP INDEX**

Site Map

Designated Evacuation Areas

Facility Map - General

Facility Map - Close up

Underground Storage Tank Location

Building 1 - Tank Farm plan

Building 12 - First Floor Plan Second Floor Plan Third Floor Plan Fourth Floor Plan

Building 13 - Floor Plan

Building 15 - First Floor Plan

Building 16 - PSD - Floor Plan

Building 17 - Research - lower level floor plan upper level floor plan

Building 23 - Machine shop floor plan

Buildings 22, 29,31,32 - floor plans

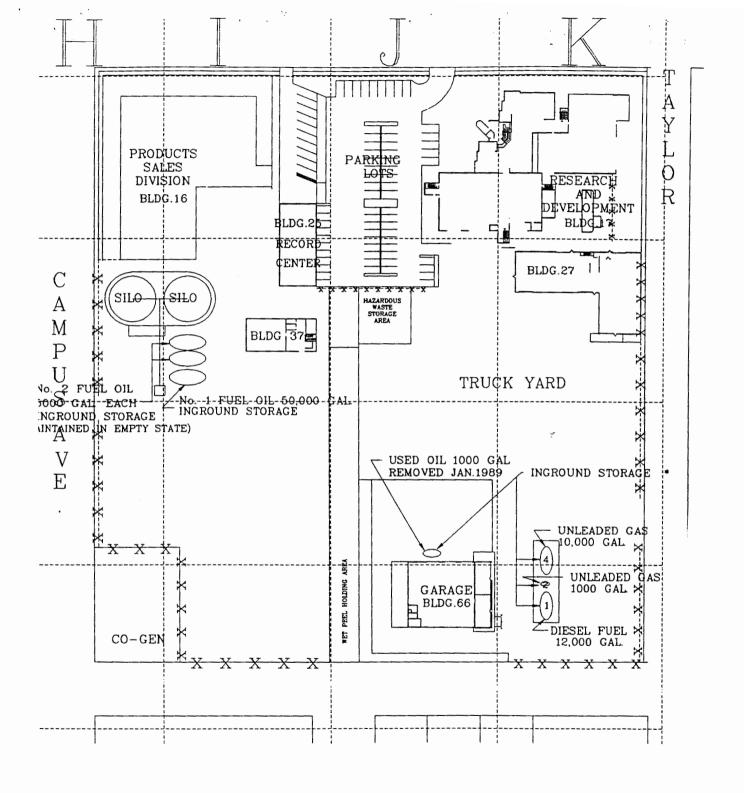
Building 73, 74 - Freezers - floor plans

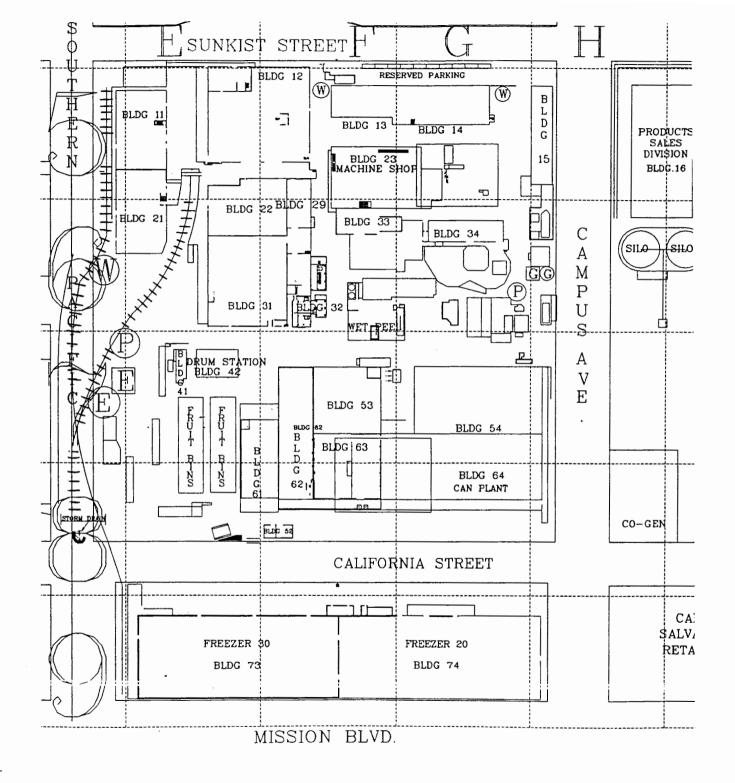
Fire Map - Plant area - northwest property area
Research, Mfr'g, and PSD - NE property area
Plant - Southwest property area

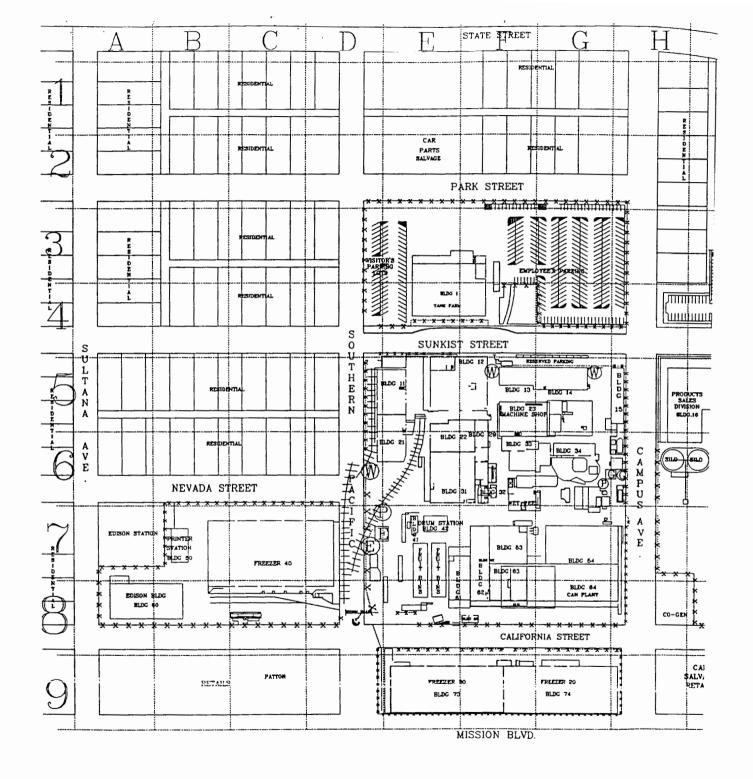
**DESIGNATED EVACUATION AREAS** STREET PARE EMPLOYEES NOTE: The evacuation areas are coded if an evacuation is ordered. PARKING employees will be instructed as to the BULK STORAGE area (A.B. or Chin which they should 8LDG # 1 الأورازلا فيوارين 0 • SUNKIST STREET BLC 451 LIEVADA TREET C BUR STATION BLO'4 0404 BLD 4 60 CALIFORNIA STREET

-BOULEVARD ---

-M15510N--

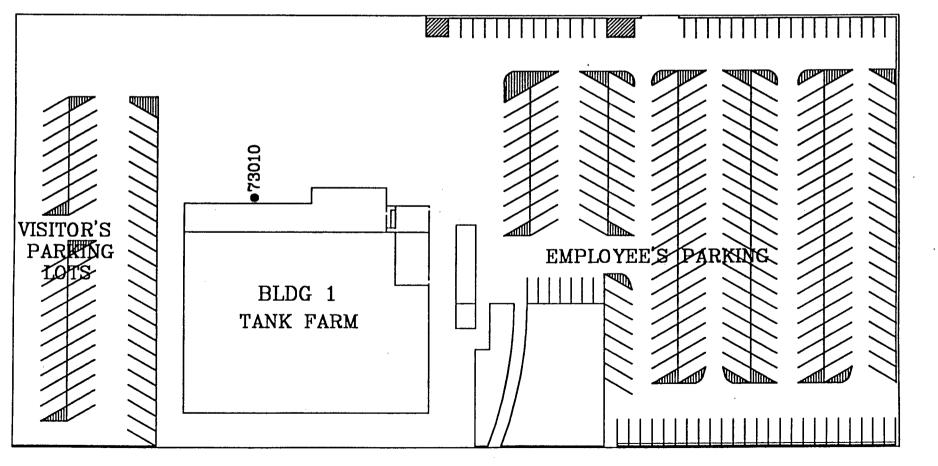








### PARK STREET

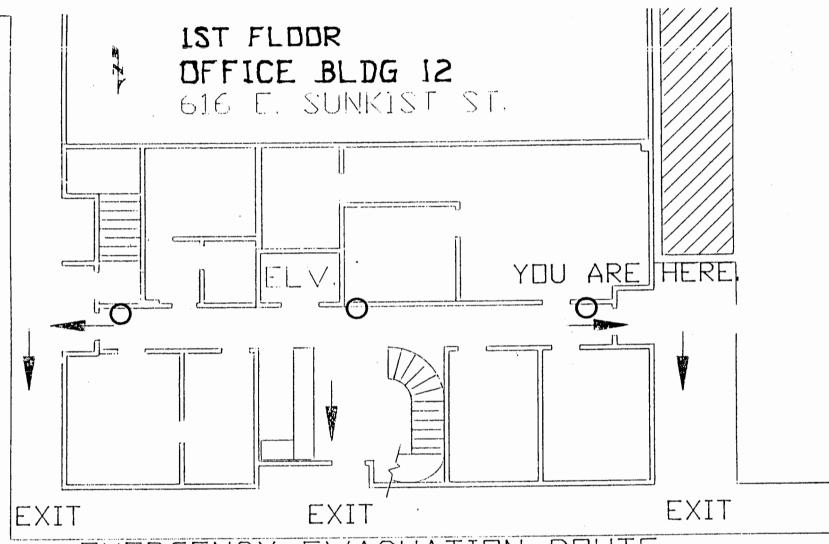


SUNKICT STREET

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C A M P U S

A V E



EMERGENCY EVACUATION ROUTE

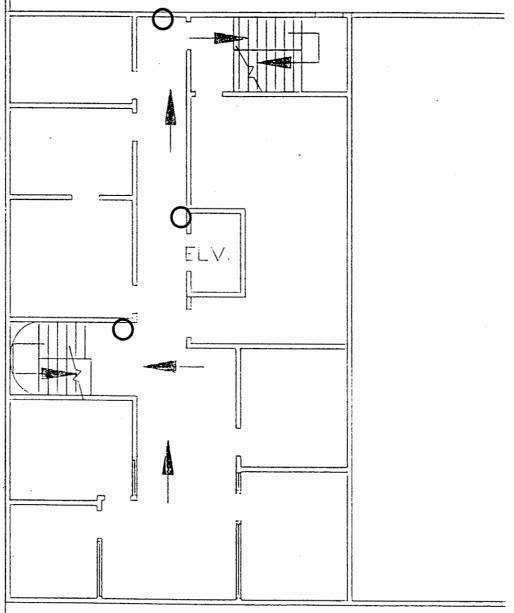
2ND FLOOR

2ND FLOOR

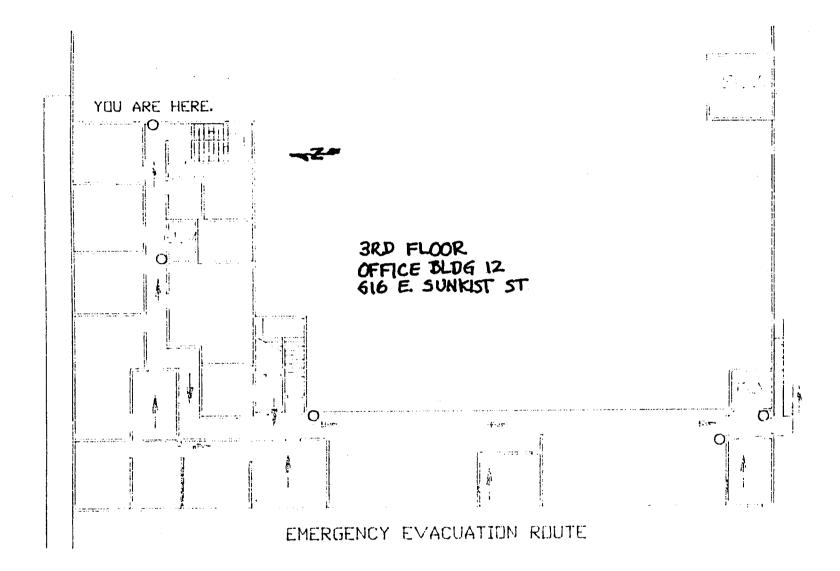
BLDG 12

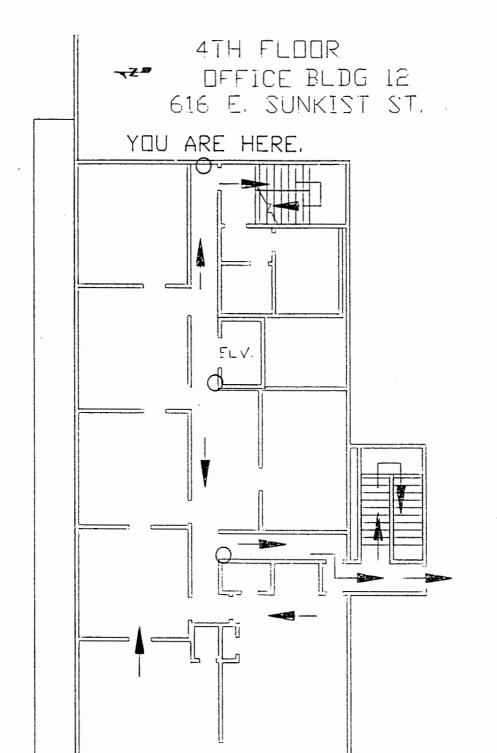
616 E. SUNKIST ST.

YOU ARE HERE.

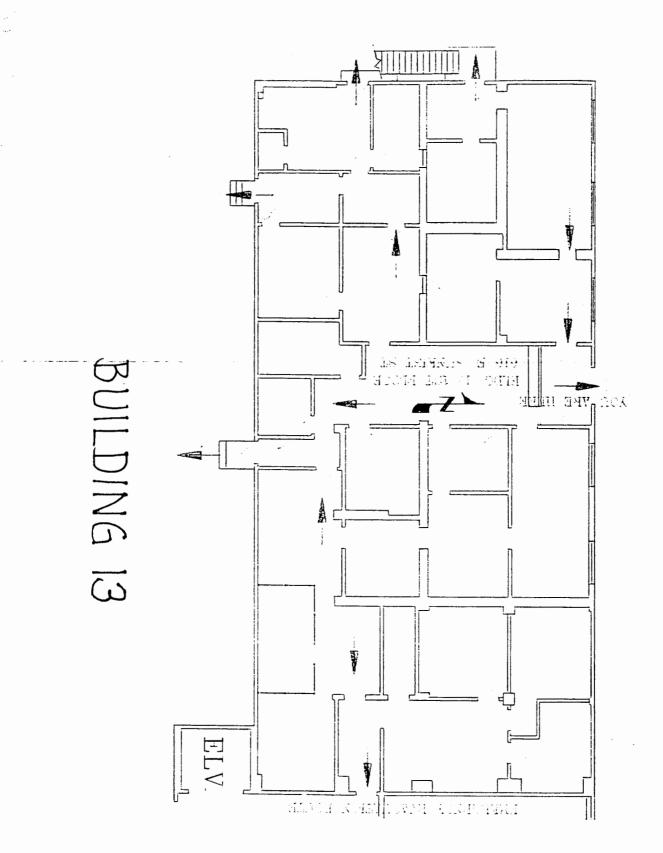


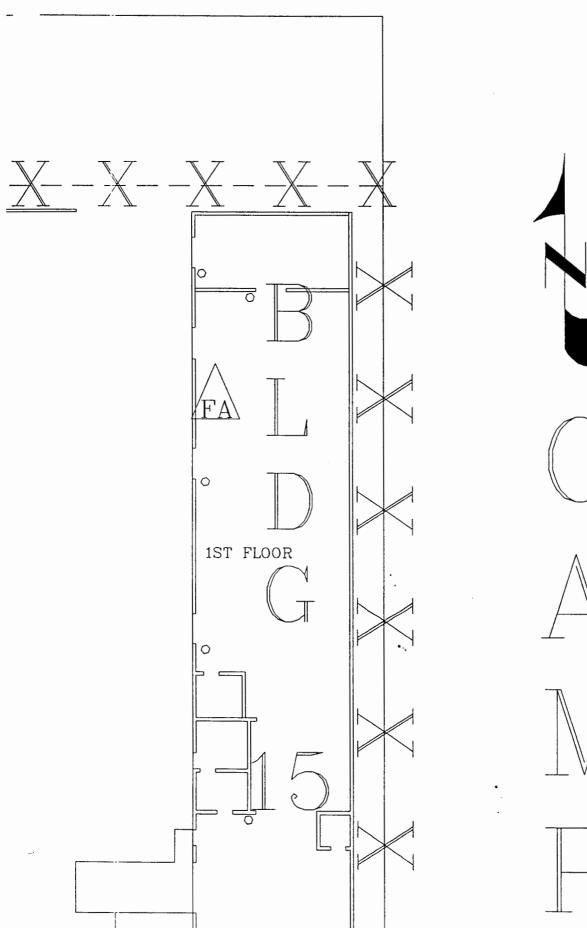
EMERGENCY EVACUATION ROUTE

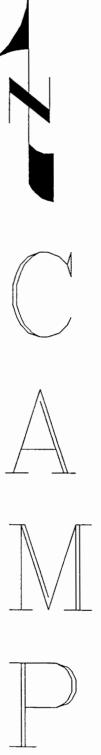




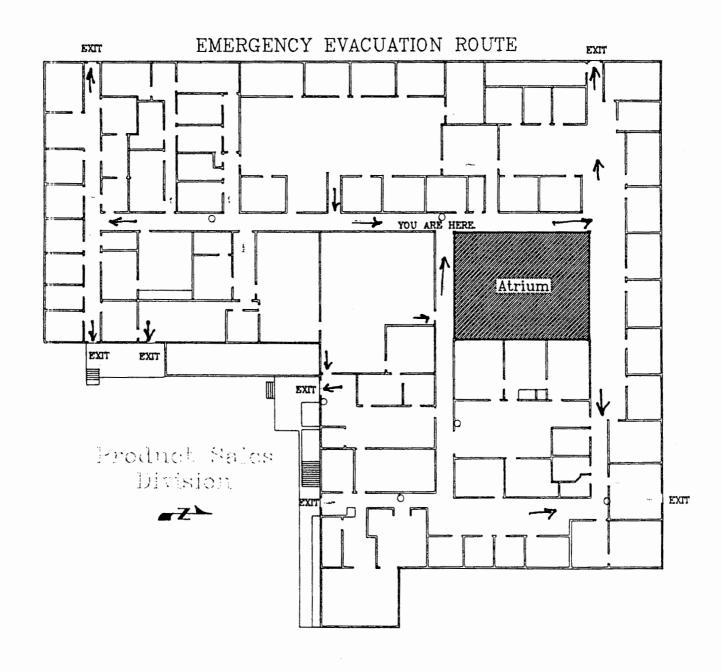
EMERGENCY EVACUATION ROUTE

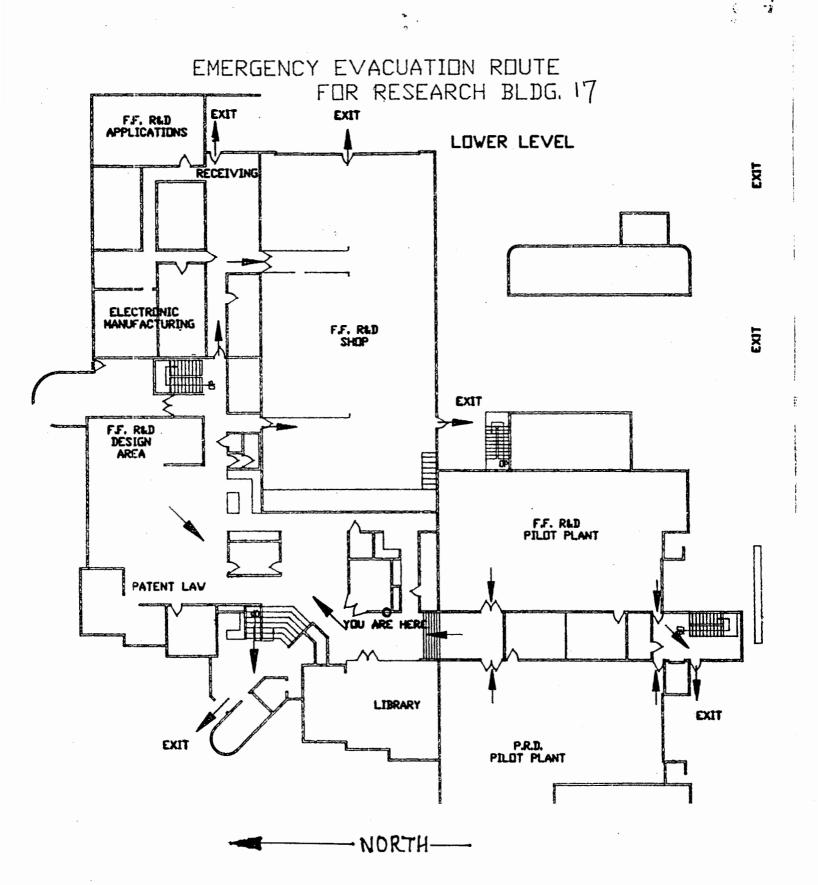




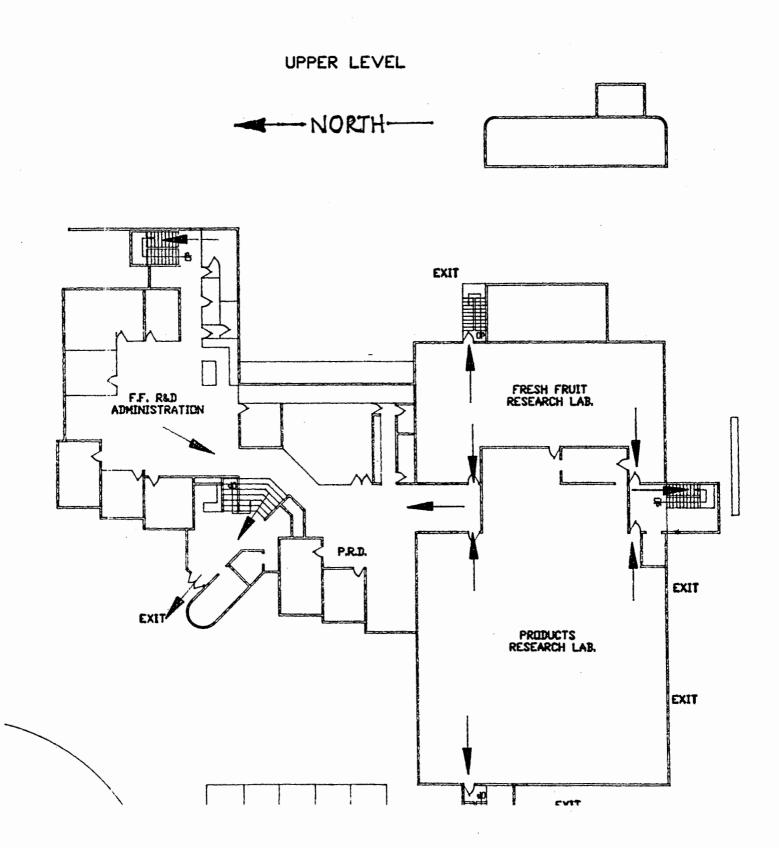


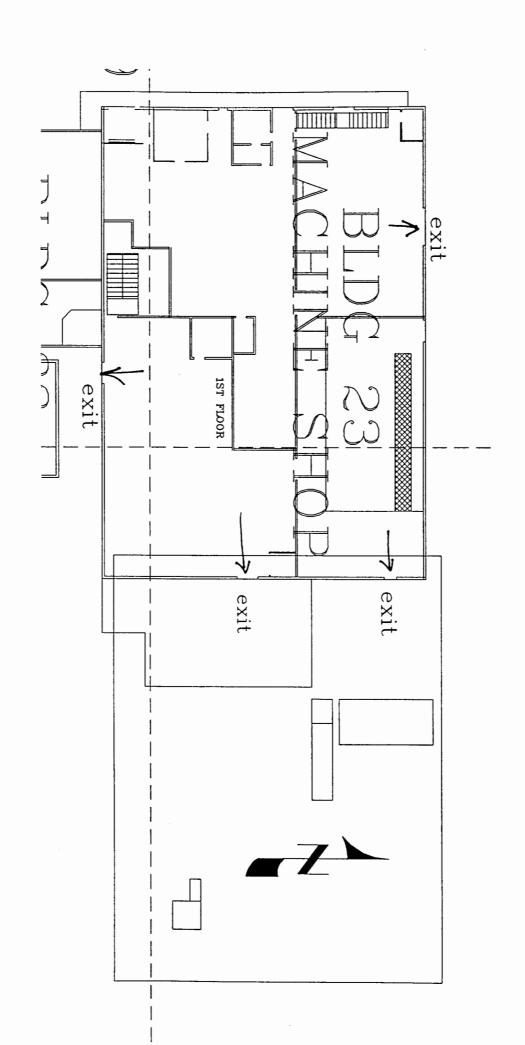
### BUILDING 16





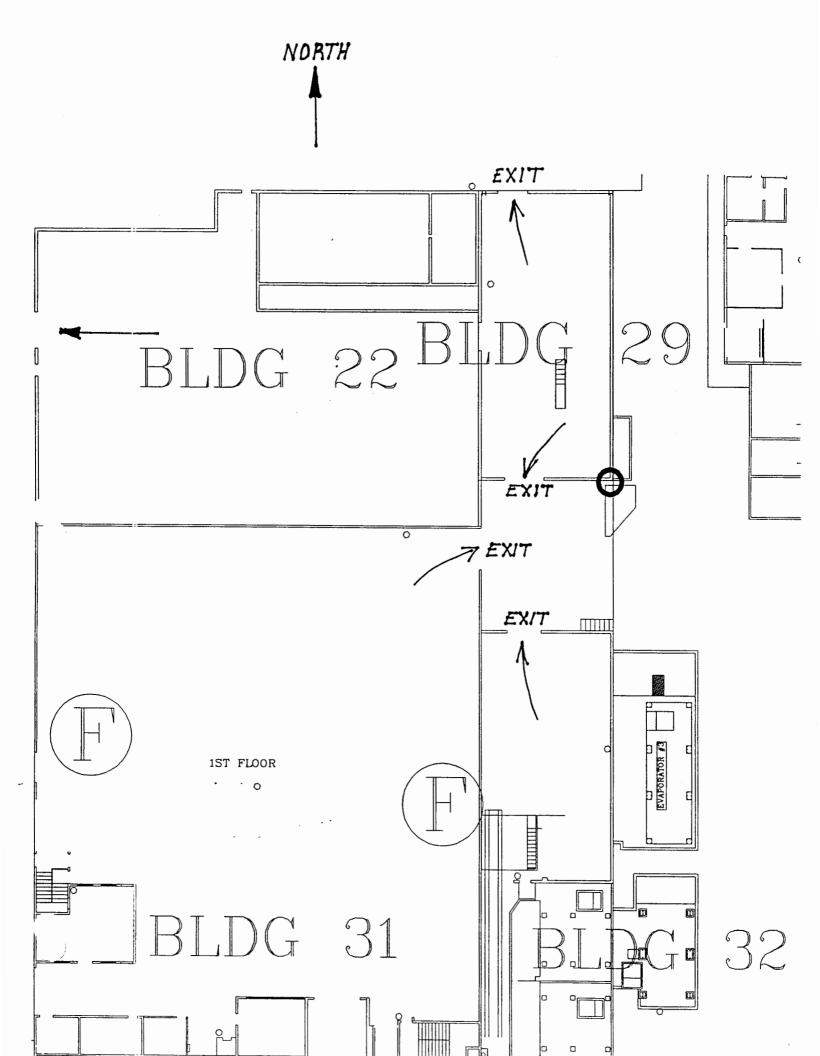
## EMEF ENCY EVACUATION RESEARCH BLDG. 17



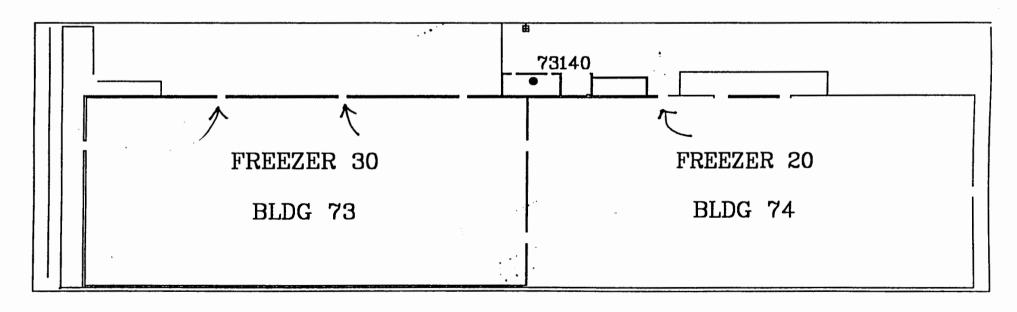


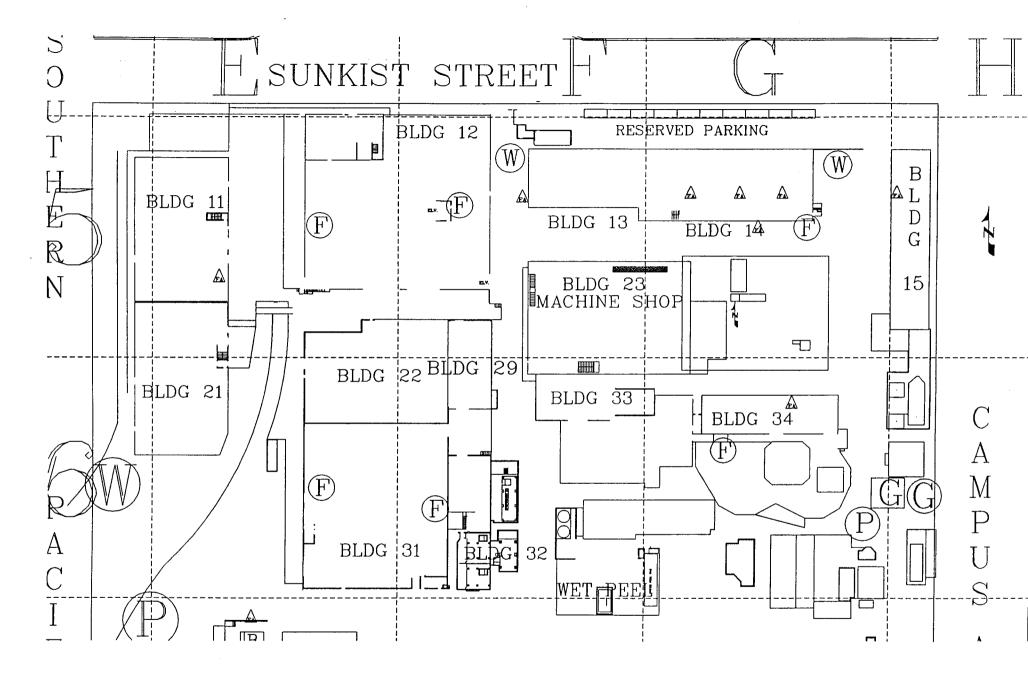
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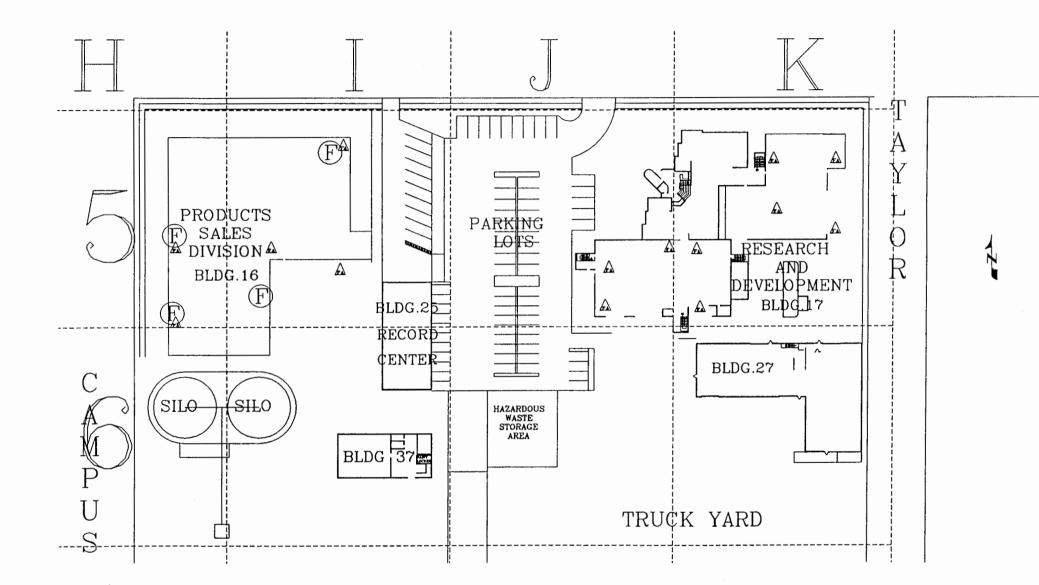


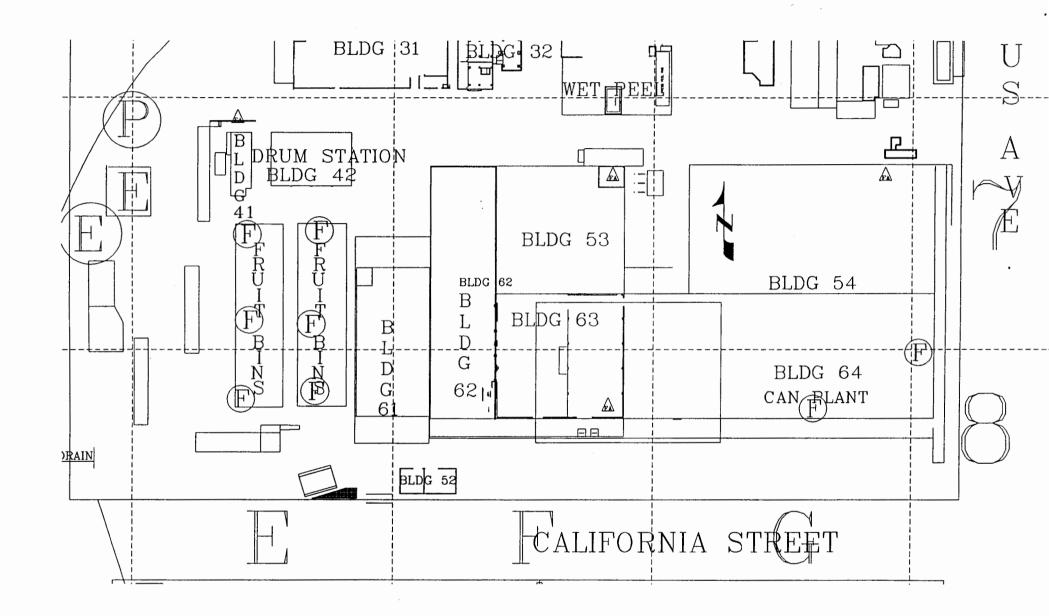
### .CALIFORNIA STREET





F FIRE HOSE





#### **COMMUNICATION STRATEGY**

#### California RCRA Enforcement Action

U.S. EPA Issuance of RCRA 3008(a) Complaint To Sunkist Growers, Inc., 616 East Sunkist St., Ontario CA 91761

**Date of Action:** September 21, 1999

#### Action:

U.S. EPA will issue a RCRA 3008(a) Complaint to Sunkist Growers, Inc., 760 East Sunkist St., Ontario, CA, 91761. This action is based upon an inspection performed by EPA on December 4, 1999. This Determination of Violation is designed to return Sunkist Growers to compliance with RCRA and settle the action for a penalty of \$26,730.

Five violations were cited: (1) failure to keep hazardous waste containers closed when not in use, (2) inadequate personnel training program, (3) inadequate drum aisle space, (4) inadequate contingency plan, and (5) operating a storage facility without a permit.

#### Key Outreach "Nuggets":

Main thrust: EPA intends to strictly enforce all RCRA regulations governing facilities in the generation and management of hazardous wastes.

**Public Interest:** Low

**Project Officer:** Clint Seiter, WST-3-1, 744-2141

**Section Chief:** Roberto Rodriguez, WST-3-1, 744-2145 **Attorney:** Matthew Strassberg, RC-3, 744-1370

Published : Watthew Strassocies, RC-3, 744-137

Public Affairs: David Schmidt:, E-2, 744-1578

# Region 9 Communication Strategy: Issuance of RCRA 3008(a) Complaint to:

Sunkist Growers, Inc. 616 East Sunkist St. Ontario, CA 91761

Projected Announcement Date: September 21, 1999

Materials to be Created:

By Whom:

"A": Complaint

Clint Seiter, WST-3-1

"B": Cover Letter to Complaint

Clint Seiter, WST-3-1

"C": Press Release

David Schmidt, E-2

Note: For a complaint, day "O" begins the day EPA confirms receipt of the action document by the facility.

Audience	Timing	Staffer	Method	Materials
FACILITY MANAGEMENT: Terry Catlin, Senior Manager Terry Catlin, Senior Manager	-1 -1	Clint Seiter Clint Seiter	Fed Exp Cert Mail	A,B A,B
FACILITY STAFF: Herb Hartman, Environmental Manager	0	Clint Seiter	Phone	
STATE AGENCIES: Larry Matz, DTSC, HQ	0	Clint Seiter	Mail	C only
Paula Rasmussen, DTSC, HQ	0	Clint Seiter Clint Seiter	Fax Mail	C AB

R9 RCRA Information Line	-1	Clint Seiter	deliver	С
Roberto Rodriguez, WST-3-1	0	Clint Seiter	deliver	A,B,C
Kim Savage, H-4	0	Clint Seiter	deliver	A,B, penalty documenta-tion

#### ADDRESSES AND PHONE LIST:

Include name, address, phone, and fax number of the people being contacted.

Terry Catlin, Senior Manager Research/Technical Services Sunkist Growers, Inc. 760 East Sunkist St., Ontario CA 91761 (909) 983-9811

#### Cal-EPA, DTSC HQ:

Larry Matz, Chief

Statewide Compliance Division

DTSC-HQ, Hazardous Waste Management

Cal-EPA

P.O. Box 806

Sacramento, CA 95812-0806

Phone:

(916) 445-2625

Fax:

(916) 327-4495

#### Paula Rasmussen

DTSC

5796 Corporate Ave.

Cypress, CA 90630

(714) 484-5394

#### Cal-EPA, DTSC, SCD, Northern California Branch:

Charlene Williams, Chief

Northern California Branch

Statewide Compliance Division

DTSC, Cal-EPA

700 Heinz Street

Berkeley, CA 94710-2737

Phone:

(510) 540-3855

Fax: (510) 540-3819

## Cal-EPA, DTSC, SCD, Southern California Branch:

Florence Gharibian, Chief

Southern California Branch

Statewide Compliance Division

DTSC, Cal-EPA

1011 N. Grandview Ave.

Glendale, CA 91201

Phone:

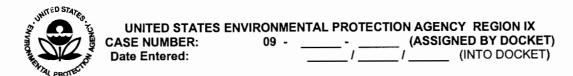
(818) 551-2925

Fax: (818) 551-2901

# EPA Region 9:

Matt Strassberg, RC-3 4-1370

RCRA Information Line: Jeanie Paige, H-4, 4-2073 or



## **ADMINISTRATIVE CASE DATA FORM**

ORC BRANCH: _	ORC-3				
* FINDS#:	CAD981412828				
* CASE NAME:	Sunkist Growers	, Inc.			
* DOCKET or INI	DEX NUMBER:	09-99-000	06	****	
* REGIONAL TE	CHNICAL CONTACT:	(Last Name)	Seiter	(1st Init.) C	_ Phone: <u>4-2141</u>
* REGIONAL AT	TORNEY:	(Last Name)	Strassberg	(1st Init.) M	Phone: <b>4-1370</b>
* FACILITY NAM	IE (if different):				_
* FACILITY ADD	RESS (Please use the	location o	of the site of viol	ation(s), not a	P.O. Box number):
Street:	760 East Sunkist, St				
City:	Ontario, CA 91761				
* FACILITY 4-DIG	GIT SIC code(s): _	2037			
DUNS Number: Program Office Program Office	Facility ID: Facility Name:				_
	l: Do not use USC or	CFR desi		Attached List	•
* Was this a MUI If Yes, Re		☐ Yes inspection settlemen		complaint □ SEP in othe	r media
Conmunity/Geo	ographically-Based Init	iative? [	Yes	x No	
* Environmental If Yes:	Justice? □ Yes □ Minority Po □ Both		x No □ Low □ Othe		
* Audit Policy Ap	plied? □ Yes	x No	If Yes, Discl	osure Date:	1 1

Comments:						
Decision:	☐ 100% Mitigat ☐ 100% Mitigat ☐ 75% Gravity ☐ 75% Gravity		ce Ma	nagen	nent System	
Is this action to ENFO	RCE an ADMINI	STRATIVE ORDER?		Yes	x No	
Is the State DELEGA	TED for the progr	ram?		Yes	x No	
Category of VIOLATOR	(Check	appropriate category)	)			
RCRA	☐ MEDP (Me	nificant Noncomplier o edium Priority Violator) n-SNC High Priority V w Priority Violator)	)		Violator)	
CWA	□ SNC (Sign	ificant Noncomplier or	Signi	ficant '	Violator)	
		significant Violator)		N/A	(Not Applicable)	
CAA	□ SV (Signifi	cant Violator) significant Violator)		N/A	(Not Applicable)	
TSCA, FIFRA	□ SNC (Sign	ificant Noncomplier or	r Signi	ficant	Violator)	
SDWA, EPCR		Applicable - EPCRA onsignificant Violator)	only)			
MPRSA	□ MPRS					
VIOLATION TYPE(S	): RCRA	3008a	-	-		
POLLUTANT:	Spent solvent (D	0001) Corrosive	waste	es (D0	02)	
☐ Col (Colle	•	heck as many boxes as □ PEN (Penalty) RA) □ I			□ INJ (Injunction) plicable)	
CFR Violation Citation(s):  40 CFR 265.173  40 CFR 265.16(a)  40 CFR 265.35  40 CFR 265.52  40 CFR 270.1						
* Case Summary:     Count 1: Failure to keep hazardous waste containers closed when not in use. One 55 gallon container of paint solvent (D001) waste was open in a confined SAA, resulting in heavy fumes     Count 2: Inadequate training plan     Count 3: Inadequate aisle space. Access to one 55-gallon drum of D007 waste was blocked in the 90-day storage area.     Count 4: Inadequate contingency plan     Count 5: Operating a Storage Facility Without a Permit: Facility storing hazardous waste without complying with labeling and record-keeping requirements for a largequantity generator  * DATE COMPLAINT / AO ISSUED: 09 / 21 / 99  (Is this an amended complaint? YesX No)						
PROPOSED PENA	LTY:	\$ 26,730 (Penalty in Complain	nt)			





# U.S. EPA REGION 9 - CASE SCREENING WORKSHEET

Facility_Sunkist Growers, _Inc.	_	Date_9/21/9	19
By_Clint Seiter_ Mail Code_W	ST-3-1_		
RevisedRevised	Revised	Revised	
Address_616 East Sunkist Stree	t,		
CityOntario	State_Californi	a	
Violation	StatuteR	CRA	
Type of Business/ Manufacturing Process:Citrus	juice manufacturer	SIC2037	_
Repeat Violator in this program?_	No		<del></del>
Continuing Violation?		No	
Violator is parent company of a n	naquiladora?No		
Violations under Other U.S. EPA Statutes/Programs?		No	
Compliance Status	Current Enforce	ement	<del></del>
Multimedia Impacts of violation	or remedyn/a		
Toxic Release Inventory Media:		n/a	
Total:	Substances		
<b>Pollution Prevention Potential</b>	Multi-Media Potenti		
a. TRI inventory reduction	_n/a a. Current violations		
b. Recurring violation	no b. Multi-Media imp		10
c. Known feasible pp option		ory of noncompliance_no	
d. Program guidance/other	no d. Use of other aut	- Control of the Cont	
e. Waste Min checklist completed	l_no e. M-M checklist co	ompletedn	0
<b>Environmental Auditing Potent</b>	tial Innovative Settlen	nent Approaches	
a. Underlying mgmt. problem			n/a
b. Pattern of violations	<b>no</b> b. Field citation pote	ntial n/a	-

Contractor Listing Potential		
a. Recurring/continuing violationn/	a a. Industrial sector w/comp. problemno	
b. Existing enforcement actionn	/a b. Likelihood that training, publicity,	
c. Multiple viol. fac. same ownern/s	a technical assistance would enhance	
•	compliance	no
Suspension and Debarment	c. Critical habitat/geographic areano	
a. Poor performance	n/a d. Likelihood that enforcement would	
	result in envrnmntl gain in Mexicono c. Repeat violators	n/a
Civil Judicial Potential C	riminal Enforcement Potential	
a. Legal or program precedent	no a. Potential document falsification b. Significant harm/risk_	no
b. Unauthorized discharge, emission	n,	
c. Repeat or multimedia violator_ne	shipment or release	
d. Need deterrence message	_no c. Monitoring or control equip. tampering e. Judicial oversight	
neededno d. Potentially deli	berate, intentional,	
f. Desire to consolidate multimedia		no e.
Repeated violations g.	Substantial penaltyno f. Priority violation for criminal	
enforcement	•	

- 1. This is a pre-decisional document protected by the deliberative process and attorney work product privileges (and may also be a privileged attorney-client communication). Conclusions or recommendations are intended solely as preliminary information for government personnel. This worksheet contains tentative conclusions and staff level recommendations and does not create any rights, substantive or procedural, or defenses, as they are not binding on the agency or DOJ.
- 2. See also civil judicial enforcement potential criteria which may favor either a civil or a criminal enforcement response, the choice between those options being a matter of degree. Evidence or any of these factors, whenever identified, will be screened by the appropriate representatives of the Office of Criminal Investigations and regional criminal enforcement attorney.

12/04/98
SUNKIST
~9.00 A.M. Orive at facility
Herb Hartman
Envir. Services

Terry Cat lin Sr Mgr QC/ Development

extracts juice orl from: cranges Jamous grape fruit Zadoperation Not from conc lemon of Tour juicing and orling operation

Waste streams
Ammoniated oils is major waste stream Some years are non LOG  LQG
50% caustic solution (NaOH)
disposed 1-3% solution used as cleaning solution  HW-> neutralized
Remon oil filter pads
One-time waste generation
1) Rob Chemicals
2) Contaminated soil from spills
S Satellite accumulation areas

1 Jarge 90-day area
Parts claving Labety Clean Pacific Coast haguer for paints
300-400 umployees  20 handle HW  all fork lift drivers are trained
trained

Fruit receiving
A extraction lines
1'2 FMC
(354 Brown)
takes juice and oil out of fait
oils are separated
ne peel
juice ou landpulp

juce Conc. by evaporation (evap. drums or toukers drums or tanks aseptic line aseptic bins

or extracted 1. drummed mainly tankers shipped in dru

waste water 1 goes to wigation or make-up water

Heavy phase = water

Mid phase = pulp

Right phase = oil

Solid material 1 is made into cattle feed.

"Sunkist.com" also has process information. Document Review
Position descriptions
and Personell Training will
be addressed later. Facility will try together imprination from HR and other departments and provide at a later date. Manifest 96561153 Trans. Pacific Coast pacquer Pac. Resource Recovery

aint Storage 5 high x 6 x tellite area havy paint 5- millfell with solvent-based Lid not secured. 17/ Photo of 55-get drum u/ no Cabel and unsecured HW Storage rua Vient HW Strage area aisle space

Drums of solic 285 7/24 282 7/30 aroa ontainers un were JW ually not wast were icheduled for ease in product. and grade bels were undated Connot use HW clabels on this.

Forms of "salt water" were being tested for waste haracterization. Freezer 20 - 4 drums Freeze 40 - 4 drumes

both salty water

will be sured in brine line"

Will be sured in brine line"

Rechino when given the OK. 2-55gl drums Dattery waste (consine) Deing tested for metals.

8 drums did not have a Non RCRA HW waste Riquids vily water) # 22 8 drums of oily water #23 close up of of one of the draws. Should be Cabeled "used oil" if

2/3 used al 1/3 oily water how to label drum? Reach Oil takes "used oil" Ind. Waste Utel. takes "oily water" #24 Open top of used oil container # 25 View of open Used oil Container No bilingual warning 90-day Storage area.

Brought to storage on 9/9/98 Walded 8/26/98 1998 314 5 315 brought to (11/19/98 storage on According to facility log # 1 Drum label for 1998 3H # 2 Drum label for 1998 315 #3 H 1998 279 { 267, with lobeled 6/22/98 brought to storage 9/17/98

1998 249

"11/5/97" and Haz Waste actually filled with new absorbent.

5-8 Photou of Lab Weste #990 Lab Weste

#11 Overall View of "hab Pack Area" #12. Selected View of "hab Pack Orea"

3 used oil open containers

SAA = Satellite Accumulation area. SAA Refrigeration area in NH3 Room # 13 liew of above Open containers no labels 55-gal drum of used oil had Bldg. 31 Refüg area 5AA Open drum of used oil.

Bldg 31 Saboratory SAA 4/22/98 Tank Farm SAA anmonia leah prevented Open drums no labels Pulp Mill SAA "hime Solids" clids secure. 6/26/98 date on

Keturn to 90 day Itorage area. Ceptinguishers and cept wash on promises. Emerginey phone lire hope a hade also the premises. no accumulation date on 10/2 containers Noth were closed and Clids recured.

# Outbriefing

3:45

Containers of unknown waster need to be logged and tracked during waste characteruzation.

Hab Chemicals
Hab Packs

Med additional information. Their for additional imprimation on Filab packs.

\* Guidance for lab packs

IWU Industrial Claste Utilization Maps showing fire certinguishers med to the added to contingency

# BC > KB 1/26/99

air Quality

Thinners

diluent for paint > OK
solvent use for cleaning

265.31(?) adding Hw materials to the air.

\* Explosion proof flashlights

Aisle space cite 265 – each drum irsible for impoction

HW	Netermination
2-p	Tong  1) Emergency / Contingency  Plan
	Hau
Use Ci	ed oill to State only
Brin	
	pically not a HW

